TITLE 5.—GOVERNMENT ORGANIZATION AND EMPLOYEES

This title was enacted by Pub. L. 89–544, § 1, Sept. 6, 1966, 80 Stat. 378

Part I.—THE AGENCIES GENERALLY

Chapter 1.—ORGANIZATION

§ 101. Executive departments.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 6001; title 20 section 971; title 41 section 403; title 42 section 3254e.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 11–1522; 431, 434 of title 11, Appendix, of the District of Columbia Code.

§ 102. Military departments.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 6001; title 29 sections 203, 633a; title 41 sections 48b, 403; title 42 sections 2000e–16, 3254e.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 11–1522; 431, 434 of title 11, Appendix, of the District of Columbia Code.

§ 104. Independent establishment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 41 section 403.

§ 105. Executive agency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 2010; title 22 section 2685; title 29 sections 203, 633a; title 41 section 48b; title 42 sections 2000e–16, 4902.

Chapter 3.—POWERS

§ 302. Delegation of authority.

* * * * *

(b) In addition to the authority to delegate conferred by other law, the head of an agency may delegate to subordinate officials the authority vested in him—

* * * * *

(2) by section 3702 of title 44 to authorize the publication of advertisements, notices, or proposals.

(As amended Pub L. 94–183, § 2(1), Dec. 31, 1975, 89 Stat. 1057.)

AMENDMENTS

1975—Subsec. (b)(2). Pub. L. 94–183 substituted "3702" for "324".

§ 305. Systematic agency review of operations.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Office of Management and Budget note set out under this section in the main volume.

Chapter 5.—ADMINISTRATIVE PROCEDURE

SUBCHAPTER II.—ADMINISTRATIVE PROCEDURE

Sec.
552a. Records about individuals.[1]

AMENDMENTS

1974—Pub. L. 93–579, § 4, Dec. 31, 1974, 88 Stat. 1905, added item 552a.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 2 section 437d; title 16 section 460aa–3; title 29 section 982; title 33 section 1224.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 500. Administrative practice; general provisions.

CHANGE OF NAME

The Patent Office, referred to in subsec. (e), was redesignated the Patent and Trademark Office by Pub. L. 93–596, § 3, Jan. 2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

SUBCHAPTER II.—ADMINISTRATIVE PROCEDURE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 7 section 136d; title 15 section 266; title 19 section 1337; title 20 section 107d–2; title 21 sections 811, 824, 875; title 22 section 277d–24; title 29 sections 213, 792, 1137; title 31 sections 1062, 1262; title 42 section 6212; title 43 section 1624; title 47 sections 303, 310; title 49 sections 1355, 1655; title 50 App. section 463.

§ 551. Definitions.

For the purpose of this subchapter—

* * * * *

(4) "rule" means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, or practices bearing on any of the foregoing;

* * * * *

CODIFICATION

Par. (4) of this section has been set out in this Supplement to correct a typographical error.

CROSS REFERENCES

District of Columbia Administrative Procedure Act, see D.C. Code § 1–1501 et seq.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 500, 552, 701, 3344 of this title; title 2 sections 501, 502; title 15 sections 78d–1, 78w, 766, 1193; title 26 section 9041; title 30 section 956; title 42 section 6107.

[1] Analysis does not conform to section catchline.

§ 552. Public information; agency rules, opinions, orders, records, and proceedings.

(a) Each agency shall make available to the public information as follows:

* * * * *

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) the party has actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which (A) reasonably describes such records and (B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(4) (A) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees applicable to all constituent units of such agency. Such fees shall be limited to reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such search and duplication. Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

(D) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Civil Service Commission shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Commission, after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Commission recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6)(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall—

(i) determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this subparagraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request—

(i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(C) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(b) This section does not apply to matters that are—

(1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;

* * * * *

(7) investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

* * * * *

Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection.

* * * * *

(d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include—

(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(2) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

(4) the results of each proceeding conducted pursuant to subsection (a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(5) a copy of every rule made by such agency regarding this section;

(6) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

(7) such other information as indicates efforts to administer fully this section.

The Attorney General shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the

exemption involved in each case, the disposition of such case, and the cost, fees, and penalties assessed under subsections (a)(4)(E), (F), and (G). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(e) For purposes of this section, the term "agency" as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency. (As amended Pub. L. 93–502, §§ 1–3, Nov. 21, 1974, 88 Stat. 1561–1564.)

AMENDMENTS

1974—Subsec. (a)(2). Pub. L. 93–502, § 1(a), substituted provisions relating to maintenance and availability of current indexes, for provisions relating to maintenance and availability of a current index, and added provisions relating to publication and distribution of copies of indexes or supplements thereto.

Subsec. (a)(3). Pub. L. 93–502, § 1(b)(1), substituted provisions requiring requests to reasonably describe records for provisions requiring requests, for identifiable records, and struck out provisions setting forth procedures to enjoin agencies from withholding the requested records and ordering their production.

Subsec. (a)(4). Pub. L. 93–502, § 1(b)(2), added subsec. (a)(4). Former subsec. (a)(4) redesignated (a)(5).

Subsec. (a)(5). Pub. L. 93–502, § 1(b)(2), redesignated former subsec. (a)(4) as (a)(5).

Subsec. (a)(6). Pub. L. 93–502, § 1(c), added subsec. (a)(6).

Subsec. (b)(1). Pub. L. 93–502, § 2(a), designated existing provisions as cl. (A), and, as so designated, substituted "authorized under criteria established by an" for "required by", and added cl. (B).

Subsec. (b)(7). Pub. L. 93–502, § 2(b), substituted provisions relating to exemption for investigatory records compiled for law enforcement purposes, for provisions relating to exemption for investigatory files compiled for law enforcement purposes.

Subsec. (b). Pub. L. 93–502, § 2(c), added provision following par. (9) relating to availability of segregable portion of records.

Subsecs. (d), (e). Pub. L. 93–502, § 3, added subsecs. (d) and (e).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 4 of Pub. L. 93–502 provided that: "The amendments made by this Act [amending this section] shall take effect on the ninetieth day beginning after the date of enactment of this Act [Nov. 21, 1974]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 551, 552a of this title; title 2 sections 472, 501, 502; title 15 sections 78m, 78w, 78x, 78ggg, 766, 773, 796, 1193, 1262, 1418, 2005, 2055, 2217; title 16 sections 1100b–5, 1402; title 19 section 160; title 31 section 1052; title 33 section 1513; title 39 section 410; title 42 sections 2996d, 4332, 5916, 6272, 6273, 6274, 6346; title 45 sections 546, 715; title 46 section 1463; title 49 sections 1357, 1805, 1806, 1905; title 50 App. sections 463, 2158, 2158a.

§ 552a. Records maintained on individuals.

(a) Definitions.

For purposes of this section—

(1) the term "agency" means agency as defined in section 552(e) of this title;

(2) the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(3) the term "maintain" includes maintain, collect, use, or disseminate;

(4) the term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(5) the term "system of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(6) the term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 13; and

(7) the term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

(b) Conditions of disclosure.

No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be—

(1) to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

(2) required under section 552 of this title;

(3) for a routine use as defined in subsection (a)(7) of this section and described under subsection (e)(4)(D) of this section;

(4) to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13;

(5) to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(7) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(10) to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) pursuant to the order of a court of competent jurisdiction.

(c) Accounting of certain disclosures.

Each agency, with respect to each system of records under its control shall—

(1) except for disclosures made under subsections (b)(1) or (b)(2) of this section, keep an accurate accounting of—

(A) the date, nature, and purpose of each disclosure of a record to any person or to another agency made under subsection (b) of this section; and

(B) the name and address of the person or agency to whom the disclosure is made;

(2) retain the accounting made under paragraph (1) of this subsection for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;

(3) except for disclosures made under subsection (b)(7) of this section, make the accounting made under paragraph (1) of this subsection available to the individual named in the record at his request; and

(4) inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of this section of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

(d) Access to records.

Each agency that maintains a system of records shall—

(1) upon request by any individual to gain access to his record or to any information pertaining to him which is contained in the system, permit him and upon his request, a person of his own choosing to accompany him, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him, except that the agency may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence;

(2) permit the individual to request amendment of a record pertaining to him and—

(A) not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and

(B) promptly, either—

(i) make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(ii) inform the individual of its refusal to amend the record in accordance with his request, the reason for the refusal, the procedures established by the agency for the individual to request a review of that refusal by the head of the agency or an officer designated by the head of the agency, and the name and business address of that official;

(3) permit the individual who disagrees with the refusal of the agency to amend his record to request a review of such refusal, and not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the head of the agency extends such 30-day period; and if, after his review, the reviewing official also refuses to amend the record in accordance with the request, permit the individual to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal of the agency, and notify the individual of the provisions for judicial review of the reviewing official's determination under subsection (g)(1)(A) of this section;

(4) in any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (3) of this subsection, clearly note any portion of the record which is disputed and provide copies of the statement and, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed; and

(5) nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

(e) Agency requirements.

Each agency that maintains a system of records shall—

(1) maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President;

(2) collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs;

(3) inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual—

(A) the authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(B) the principal purpose or purposes for which the information is intended to be used;

(C) the routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of this subsection; and

(D) the effects on him, if any, of not providing all or any part of the requested information;

(4) subject to the provisions of paragraph (11) of this subsection, publish in the Federal Register at least annually a notice of the existence and character of the system of records, which notice shall include—

(A) the name and location of the system;

(B) the categories of individuals on whom records are maintained in the system;

(C) the categories of records maintained in the system;

(D) each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(E) the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

(F) the title and business address of the agency official who is responsible for the system of records;

(G) the agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

(H) the agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its content; and

(I) the categories of sources of records in the system;

(5) maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;

(6) prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;

(7) maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;

(8) make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record;

(9) establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of this section, including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance;

(10) establish appropriate administrative, technical, and physical safegards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained; and

(11) at least 30 days prior to publication of information under paragraph (4)(D) of this subsection, publish in the Federal Register notice of any new use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to the agency.

(f) Agency rules.

In order to carry out the provisions of this section, each agency that maintains a system of records shall promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, which shall—

(1) establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him;

(2) define reasonable times, places, and requirements for identifying an individual who requests his record or information pertaining to him before the agency shall make the record or information available to the individual;

(3) establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records pertaining to him;

(4) establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means may be necessary for each individual to be able to exercise fully his rights under this section; and

(5) establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record.

The Office of the Federal Register shall annually compile and publish the rules promulgated under this subsection and agency notices published under subsection (e)(4) of this section in a form available to the public at low cost.

(g)(1) Civil remedies.

Whenever any agency

(A) makes a determination under subsection (d)(3) of this section not to amend an individual's record in accordance with his request, or fails to make such review in conformity with that subsection;

(B) refuses to comply with an individual request under subsection (d)(1) of this section;

(C) fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual; or

(D) fails to comply with any other provision of this section, or any rule promulgated thereunder, in such a way as do have an adverse effect on an individual,

the individual may bring a civil action against the agency, and the district courts of the United States shall have jurisdiction in the matters under the provisions of this subsection.

(2)(A) In any suit brought under the provisions of subsection (g)(1)(A) of this section, the court may order the agency to amend the individual's record in accordance with his request or in such other way as the court may direct. In such a case the court shall determine the matter de novo.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(3)(A) In any suit brought under the provisions of subsection (g)(1)(B) of this section, the court may enjoin the agency from withholding the records and order the production to the complainant of any agency records improperly withheld from him. In such a case the court shall determine the matter de novo, and may examine the contents of any agency records in camera to determine whether the records or any portion thereof may be withheld under any of the exemptions set forth in subsection (k) of this section, and the burden is on the agency to sustain its action.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(4) In any suit brought under the provisions of subsection (g)(1)(C) or (D) of this section in which the court determines that the agency acted in a manner which was intentional or willful, the United States shall be liable to the individual in an amount equal to the sum of—

(A) actual damages sustained by the individual as a result of the refusal or failure, but in no case shall a person entitled to recovery receive less than the sum of $1,000; and

(B) the costs of the action together with reasonable attorney fees as determined by the court.

(5) An action to enforce any liability created under this section may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where an agency has materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under this section, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action by reason of any injury sustained as the result of a disclosure of a record prior to September 27, 1975.

(h) Rights of legal guardians.

For the purposes of this section, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

(i)(1) Criminal penalties.

Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(2) Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than $5,000.

(3) Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

(j) General exemptions.

The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from any part of this section except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e)(6), (7), (9), (10), and (11), and (i) if the system of records is—

(1) maintained by the Central Intelligence Agency; or

(2) maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and

probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(k) Specific exemptions.

The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b) (1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f) of this section if the system of records is—

(1) subject to the provisions of section 552(b)(1) of this title;

(2) investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: *Provided, however,* That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(3) maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18;

(4) required by statute to be maintained and used solely as statistical records;

(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of his section, under an implied promise that the identity of the source would be held in confidence;

(6) testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(*l*)(1) Archival records.

Each agency record which is accepted by the Administrator of General Services for storage, processing, and servicing in accordance with section 3103 of title 44 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record and shall be subject to the provisions of this section. The Administrator of General Services shall not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with the provisions of this section.

(2) Each agency record pertaining to an identifiable individual which was transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, prior to the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall not be subject to the provisions of this section, except that a statement generally describing such records (modeled after the requirements relating to records subject to subsections (e)(4)(A) through (G) of this section) shall be published in the Federal Register.

(3) Each agency record pertaining to an identifiable individual which is transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall be exempt from the requirements of this section except subsections (e)(4)(A) through (G) and (e)(9) of this section.

(m) Government contractors.

When an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function, the agency shall, consistent with its authority, cause the requirements of this section to be applied to such system. For purposes of subsection (i) of this section any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered to be an employee of an agency.

(n) Mailing lists.

An individual's name and address may not be sold or rented by an agency unless such action is specifically authorized by law. This provision shall not be

construed to require the withholding of names and addresses otherwise permitted to be made public.

(o) Report on new systems.

Each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals or the disclosure of information relating to such individuals, and its effect on the preservation of the constitutional principles of federalism and separation of powers.

(p) Annual report.

The President shall submit to the Speaker of the House and the President of the Senate, by June 30 of each calendar year, a consolidated report, separately listing for each Federal agency the number of records contained in any system of records which were exempted from the application of this section under the provisions of subsections (j) and (k) of this section during the preceding calendar year, and the reasons for the exemptions, and such other information as indicates efforts to administer fully this section.

(q) Effect of other laws.

No agency shall rely on any exemption contained in section 552 of this title to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this section. (Added Pub. L. 93–579, § 3, Dec. 31, 1974, 88 Stat. 1897, and amended Pub. L. 94–183, § 2(2), Dec. 31, 1975, 89 Stat. 1057.)

REFERENCES IN TEXT

For effective date of this section, referred to in subsecs. (k)(2), (5), (7), (l)(2), (3), and (m), see effective date note hereunder.

AMENDMENTS

1975—Subsec. (g)(5). Pub. L. 94–183 substituted "to September 27, 1975" for "to the effective date of this section".

EFFECTIVE DATE

Section 8 of Pub. L. 93–579 provided that: "The provisions of this Act [enacting this section and provisions set out as notes under this section] shall be effective on and after the date of enactment [Dec. 31, 1974], except that the amendments made by sections 3 and 4 [enacting this section and amending analysis preceding section 500 of this title] shall become effective 270 days following the day on which this Act is enacted."

SHORT TITLE

Section 1 of Pub. L. 93–579 provided: "That this Act [enacting this section and provisions set out as notes under this section] may be cited as the 'Privacy Act of 1974'."

CONGRESSIONAL FINDINGS AND STATEMENT OF PURPOSE

Section 2 of Pub. L. 93–579 provided that:

"(a) The Congress finds that—

"(1) the privacy of an individual is directly affected by the collection, maintenance, use, and dissemination of personal information by Federal agencies;

"(2) the increasing use of computers and sophisticated information technology, while essential to the efficient operations of the Government, has greatly magnified the harm to individual privacy that can occur from any collection, maintenance, use, or dissemination of personal information;

"(3) the opportunities for an individual to secure employment, insurance, and credit, and his right to due process, and other legal protections are endangered by the misuse of certain information systems;

"(4) the right to privacy is a personal and fundamental right protected by the Constitution of the United States; and

"(5) in order to protect the privacy of individuals identified in information systems maintained by Federal agencies, it is necessary and proper for the Congress to regulate the collection, maintenance, use, and dissemination of information by such agencies.

"(b) The purpose of this Act [enacting this section and provisions set out under this section] is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies, except as otherwise provided by law, to—

"(1) permit an individual to determine what records pertaining to him are collected, maintained, used, or disseminated by such agencies;

"(2) permit an individual to prevent records pertaining to him obtained by such agencies for a particular purpose from being used or made available for another purpose without his consent;

"(3) permit an individual to gain access to information pertaining to him in Federal agency records, to have a copy made of all or any portion thereof, and to correct or amend such records;

"(4) collect, maintain, use, or disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that the information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information;

"(5) permit exemptions from the requirements with respect to records provided in this Act only in those cases where there is an important public policy need for such exemption as has been determined by specific statutory authority; and

"(6) be subject to civil suit for any damages which occur as a result of willful or intentional action which violates any individual's rights under this Act."

PRIVACY PROTECTION STUDY COMMISSION

Section 5 of Pub. L. 93–579 provided that:

"(a)(1) There is established a Privacy Protection Study Commission (hereinafter referred to as the 'Commission') which shall be composed of seven members as follows:

"(A) three appointed by the President of the United States,

"(B) two appointed by the President of the Senate, and

"(C) two appointed by the Speaker of the House of Representatives.

Members of the Commission shall be chosen from among persons who, by reason of their knowledge and expertise in any of the following areas—civil rights and liberties, law, social sciences, computer technology, business, records management, and State and local government—are well qualified for service on the Commission.

"(2) The members of the Commission shall elect a Chairman from among themselves.

"(3) Any vacancy in the membership of the Commission, as long as there are four members in office, shall not impair the power of the Commission but shall be filled in the same manner in which the original appointment was made.

"(4) A quorum of the Commission shall consist of a majority of the members, except that the Commission may establish a lower number as a quorum for the purpose of taking testimony. The Commission is authorized to establish such committees and delegate such authority to them as may be necessary to carry out its functions. Each member of the Commission, including the Chairman, shall have equal responsibility and authority in all decisions and actions of the Commission, shall have full access to all information necessary to the performance of their functions, and shall have one vote. Action of the Commission shall be determined by a majority vote of the members present. The Chairman (or a member designated by the Chairman to be acting Chairman) shall be the official spokesman of the Commission in its relations with the Congress, Government agencies, other persons, and the public, and, on behalf of the Commission, shall see to the faithful execution of the administrative policies and decisions of the Commission, and

shall report thereon to the Commission from time to time or as the Commission may direct.

"(5)(A) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that request to Congress.

"(B) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"(b) The Commission shall—

"(1) make a study of the data banks, automated data processing programs, and information systems of governmental, regional, and private organizations, in order to determine the standards and procedures in force for the protection of personal information; and

"(2) recommend to the President and the Congress the extent, if any, to which the requirements and principles of section 552a of title 5, United States Code should be applied to the information practices of those organizations by legislation, administrative action, or voluntary adoption of such requirements and principles, and report on such other legislative recommendations as it may determine to be necessary to protect the privacy of individuals while meeting the legitimate needs of government and society for information.

"(c)(1) In the course of conducting the study required under subsection (b)(1) of this section, and in its reports thereon, the Commission may research, examine, and analyze—

"(A) interstate transfer of information about individuals that is undertaken through manual files or by computer or other electronic or telecommunications means;

"(B) data banks and information programs and systems the operation of which significantly or substantially affect the enjoyment of the privacy and other personal and property rights of individuals;

"(C) the use of social security numbers, license plate numbers, universal identifiers, and other symbols to identify individuals in data banks and to gain access to, integrate, or centralize information systems and files; and

(D) the matching and analysis of statistical data, such as Federal census data, with other sources of personal data, such as automobile registries and telephone directories, in order to reconstruct individual responses to statistical questionnaires for commercial or other purposes, in a way which results in a violation of the implied or explicitly recognized confidentiality of such information.

"(2)(A) The Commission may include in its examination personal information activities in the following areas: medical; insurance; education; employment and personnel; credit, banking and financial institutions; credit bureaus; the commercial reporting industry; cable television and other telecommunications media; travel, hotel and entertainment reservations; and electronic check processing.

"(B) The Commission shall include in its examination a study of—

"(i) whether a person engaged in interstate commerce who maintains a mailing list should be required to remove an individual's name and address from such list upon request of that individual;

"(ii) whether the Internal Revenue Service should be prohibited from transferring individually identifiable data to other agencies and to agencies of State governments;

"(iii) whether the Federal Government should be liable for general damages incurred by an individual as the result of a willful or intentional violation of the provisions of sections 552a (g)(1) (C) or (D) of title 5, United States Code; and

"(iv) whether and how the standards for security and confidentiality of records required under section 552a(e)(10) of such title should be applied when a record is disclosed to a person other than an agency.

"(C) The Commission may study such other personal information activities necessary to carry out the congressional policy embodied in this Act, except that the Commission shall not investigate information systems maintained by religious organizations.

"(3) In conducting such study, the Commission shall—

"(A) determine what laws, Executive orders, regulations, directives, and judicial decisions govern the activities under study and the extent to which they are consistent with the rights of privacy, due process of law, and other guarantees in the Constitution;

"(B) determine to what extent governmental and private information systems affect Federal-State relations or the principle of separation of powers;

"(C) examine the standards and criteria governing programs, policies, and practices relating to the collection, soliciting, processing, use, access, integration, dissemination, and transmission of personal information; and

"(D) to the maximum extent practicable, collect and utilize findings, reports, studies, hearing transcripts, and recommendations of governmental, legislative and private bodies, institutions, organizations, and individuals which pertain to the problems under study by the Commission.

"(d) In addition to its other functions the Commission may—

"(1) request assistance of the heads of appropriate departments, agencies, and instrumentalities of the Federal Government, of State and local governments, and other persons in carrying out its functions under this Act;

"(2) upon request, assist Federal agencies in complying with the requirements of section 552a of title 5, United States Code;

"(3) determine what specific categories of information, the collection of which would violate an individual's right of privacy, should be prohibited by statute from collection by Federal agencies; and

"(4) upon request, prepare model legislation for use by State and local governments in establishing procedures for handling, maintaining, and disseminating personal information at the State and local level and provide such technical assistance to State and local governments as they may require in the preparation and implementation of such legislation.

"(e)(1) The Commission may, in carrying out its functions under this section, conduct such inspections, sit and act at such times and places, hold such hearings, take such testimony, require by subpena the attendance of such witnesses and the production of such books, records, papers, correspondence, and documents, administer such oaths, have such printing and binding done, and make such expenditures as the Commission deems advisable. A subpena shall be issued only upon an affirmative vote of a majority of all members of the Commission. Subpenas shall be issued under the signature of the Chairman or any member of the Commission designated by the Chairman and shall be served by any person designated by the Chairman or any such member. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

"(2)(A) Each department, agency, and instrumentality of the executive branch of the Government is authorized to furnish to the Commission, upon request made by the Chairman, such information, data, reports and such other assistance as the Commission deems necessary to carry out its functions under this section. Whenever the head of any such department, agency, or instrumentality, submits a report pursuant to section 552a(o) of title 5, United States Code, a copy of such report shall be transmitted to the Commission.

"(B) In carrying out its functions and exercising its powers under this section, the Commission may accept from any such department, agency, independent instrumentality, or other person any individually indentifiable data if such data is necessary to carry out such powers and functions. In any case in which the Commission accepts any such information, it shall assure that the information

is used only for the purpose for which it is provided, and upon completion of that purpose such information shall be destroyed or returned to such department, agency, independent instrumentality, or person from which it is obtained, as appropriate.

"(3) The Commission shall have the power to—

"(A) appoint and fix the compensation of an executive director, and such additional staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

"(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

The Commission may delegate any of its functions to such personnel of the Commission as the Commission may designate and may authorize such successive redelegations of such functions as it may deem desirable.

"(4) The Commission is authorized—

"(A) to adopt, amend, and repeal rules and regulations governing the manner of its operations, organization, and personnel;

"(B) to enter into contracts or other arrangements or modifications thereof, with any government, any department, agency, or independent instrumentality of the United States, or with any person, firm, association, or corporation, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

"(C) to make advance, progress, and other payments which the Commission deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); and

"(D) to take such other action as may be necessary to carry out its functions under this section.

"(f)(1) Each [the] member of the Commission who is an officer or employee of the United States shall serve without additional compensation, but shall continue to receive the salary of his regular position when engaged in the performance of the duties vested in the Commission.

"(2) A member of the Commission other than one to whom paragraph (1) applies shall receive per diem at the maximum daily rate for GS–18 of the General Schedule when engaged in the actual performance of the duties vested in the Commission.

"(3) All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

"(g) The Commission shall, from time to time, and in an annual report, report to the President and the Congress on its activities in carrying out the provisions of this section. The Commission shall make a final report to the President and to the Congress on its findings pursuant to the study required to be made under subsection (b)(1) of this section not later than two years from the date on which all of the members of the Commission are appointed. The Commission shall cease to exist thirty days after the date on which its final report is submitted to the President and the Congress.

"(h)(1) Any member, officer, or employee of the Commission, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by the section, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

"(2) Any person who knowingly and willfully requests or obtains any record concerning an individual from the Commission under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000."

GUIDELINES AND REGULATIONS FOR MAINTENANCE OF PRIVACY AND PROTECTION OF RECORDS OF INDIVIDUALS

Section 6 of Pub. L. 93–579 provided that:

"The Office of Management and Budget shall—

"(1) develop guidelines and regulations for the use of agencies in implementing the provisions of section 552a of title 5, United States Code, as added by section 3 of this Act; and

"(2) provide continuing assistance to and oversight of the implementation of the provisions of such section by agencies."

DISCLOSURE OF SOCIAL SECURITY NUMBER

Section 7 of Pub. L. 93–579 provided that:

"(a)(1) It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

"(2) the provisions of paragraph (1) of this subsection shall not apply with respect to—

"(A) any disclosure which is required by Federal statute, or

"(B) the disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

"(b) Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it."

AUTHORIZATION OF APPROPRIATIONS TO PRIVACY PROTECTION STUDY COMMISSION

Section 9 of Pub. L. 93–579 provided that: "There is authorized to be appropriated to carry out the provisions of section 5 of this Act [set out as a note above] for fiscal years 1975, 1976, and 1977 the sum of $1,500,000, except that not more than $750,000 may be expended during any such fiscal year."

§ 553. Rule making.

* * * * * *

(b) General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—

* * * * * *

(3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

* * * * * *

(c) After notice required by this section, the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose. When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

* * * * * *

CODIFICATION

Subsecs. (b)(3) and (c) of this section have been set out in this Supplement to correct typographical errors.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 552a, 556 of this title; title 2 sections 501, 502; title 15 sections 57a, 78s,

1410b, 1474, 1912, 2002, 2058, 2309; title 16 sections 971d, 1381, 1463, 1533, 1535; title 20 sections 1132a–5, 1232; title 21 sections 358, 463; title 29 section 982; title 30 sections 861, 936; title 33 sections 1317, 1322, 1504; title 40 section 333; title 41 section 47; title 42 sections 300g–1, 300h, 300k–1, 1857c–10, 2000e–17, 4905, 5403, 5506, 6392; title 45 sections 431, 502, 562, 715; title 49 sections 15a, 1804; title 50 App. sections 2158, 2158a.

§ 554. Adjudications.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 456, 501, 502; title 7 section 2048; title 15 sections 78d–1, 2064, 2066; title 16 section 1540; title 19 section 160; title 20 section 1132a–5; title 29 sections 216, 659; title 30 sections 185, 938; title 33 sections 919, 1367, 1504; title 42 sections 2000e–17, 4910; title 45 section 432.

§ 555. Ancillary matters.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502; title 15 section 1193; title 19 section 160.

§ 556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 553, 554, 557, 558, 706, 3105 of this title; title 2 sections 501, 502; title 7 section 87e; title 15 section 1193; title 19 section 160; title 22 section 1037a; title 39 sections 3624, 3661.

§ 557. Initial decisions; conclusiveness; review by agency; submissions by parties; contents of decisions; record.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 553, 554, 556, 558, 706, 3105 of this title; title 2 sections 501, 502; title 7 section 87e; title 15 section 1193; title 19 section 160; title 39 sections 3624, 3661.

§§ 558, 559.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in title 2 sections 501, 502.

SUBCHAPTER III.—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

§ 575. Organization of the Conference.

* * * * *

(c) The Chairman is the chief executive of the Conference. In that capacity he has the power to—

* * * * *

(10) organize and direct studies ordered by the Assembly or the Council, to contract for the performance of such studies with any public or private persons, firm, association, corporation, or institution under title III of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 251–260), and to use from time to time, as appropriate, experts and consultants who may be employed in accordance with section 3109 of this title at rates not in excess of the maximum rate of pay for grade GS–15 as provided in section 5332 of this title;

(11) utilize, with their consent, the services and facilities of Federal agencies and of State and private agencies and instrumentalities with or without reimbursement;

(12) accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating the work of the Conference. Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairman. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests. For purposes of Federal income, estate, or gift taxes, property accepted under this section shall be considered as a gift, devise, or bequest to the United States;

(13) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b));

(14) on request of the head of an agency, furnish assistance and advice on matters of administrative procedure; and

(15) exercise such additional authority as the Council or Assembly delegates to him.

The Chairman shall preside at meetings of the Council and at each plenary session of the Conference, to which he shall make a full report concerning the affairs of the Conference since the last preceding plenary session. The Chairman, on behalf of the Conference, shall transmit to the President and Congress an annual report and such interim reports as he considers desirable. (As amended Pub. L. 92–526, § 1, Oct. 21, 1972, 86 Stat. 1048.)

AMENDMENTS

1972—Subsec. (c)(10). Pub. L. 92–526, § 1(a), added provisions authorizing contracts for the performance of such studies with any public or private persons, etc., under title III of the Federal Property and Administrative Services Act of 1949, as amended, and substituted provisions authorizing the payment of experts and consultants in accordance with rates not in excess of the maximum rate of pay for grade GS–15 as provided in section 5332 of this title, for provisions authorizing the payment of such individuals at rates not in excess of $100 a day.

Subsecs. (c)(11)–(15). Pub. L. 92–526, § 1(b), added subsecs. (c)(11) to (13). Former subsecs. (c)(11) and (12) redesignated (c)(14) and (15).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 573 of this title.

§ 576. Appropriations.

There are authorized to be appropriated sums necessary not in excess of $760,000 for the fiscal year ending June 30, 1974, $805,000 for the fiscal year ending June 30, 1975, $850,000 for the fiscal year ending June 30, 1976, $900,000 for the fiscal year ending June 30, 1977, and $950,000 for the fiscal year ending June 30, 1978, and for each fiscal year thereafter, to carry out the purposes of this subchapter. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 391, amended Pub. L. 91–164, Dec. 24, 1969, 83 Stat. 446; Pub. L. 92–526, § 2, Oct. 21, 1972, 86 Stat. 1048.)

AMENDMENTS

1972—Pub. L. 92–526 substituted provisions authorizing to be appropriated necessary sums not in excess of $760,000 for the fiscal year ending June 30, 1974, $805,000 for the fiscal year ending June 30, 1975, $850,000 for the fiscal year ending June 30, 1976, $900,000 for the fiscal year ending June 30, 1977, and $950,000 for the fiscal year ending June 30, 1978, and each fiscal year thereafter, for provisions authorizing to be appropriated necessary sums, not in excess of $450,000 per annum.

Chapter 7.—JUDICIAL REVIEW

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 2 sections 434, 456; title 7 section 1154; title 15 sections 266, 1913, 2004, 2008, 2060; title 16 section 1374; title 18 section 843; title 20 sections 107d–2, 1683; title 22 sections 277d–24, 1037c; title 26 section 9041; title 29 sections 213, 721, 792, 1137; title 31 section 1062; title 33 section 1224; title 42 sections 300j–9, 1395oo, 1857f–5, 3886, 4104, 5405, 6105, 6306; title 45 section 431; title 47 sections 303, 310; title 49 sections 1355, 1655, 1903; title 50 App. section 463.

§ 701. Application; definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502; title 20 section 1683; title 42 sections 5405, 6105.

§ 702. Right of review.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502; title 19 section 160; title 42 section 5405.

§ 703. Form and venue of proceeding.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502; title 42 section 5405.

§ 704. Actions reviewable.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502; title 15 section 78s; title 42 section 5405.

§ 705. Relief pending review.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502; title 15 sections 78y, 1474; title 42 section 5405.

§ 706. Scope of review.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502; title 7 section 2048; title 15 sections 78y, 757, 760a, 1474; title 22 section 1037c; title 42 sections 1857c–10, 5405.

Chapter 9.—EXECUTIVE REORGANIZATION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 sections 2000e–6, 2941.

§ 901. Purpose.

(a) The Congress declares that it is the policy of the United States—

(1) to promote better execution of the laws, more effective management of the executive branch and of its agencies and functions, and expeditious administration of the public business;

(2) to reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the Government;

(3) to increase the efficiency of the operations of the Government to the fullest extent practicable;

(4) to group, coordinate, and consolidate agencies and functions of the Government, as nearly as may be, according to major purposes;

(5) to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions as may not be necessary for the efficient conduct of the Government; and

(6) to eliminate overlapping and duplication of effort.

* * * * *

(c) The President shall from time to time examine the organization of all agencies and shall determine what changes in such organization are necessary to carry out any policy set forth in subsection (a) of this section. (As amended Pub. L. 92–179, § 1, Dec. 10, 1971, 85 Stat. 574.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–179, § 1(a), substituted "The Congress declares that it is the policy of the United States" for "The President shall from time to time examine the organization of all agencies and shall determine what changes therein are necessary to accomplish the following purposes" preceding par. (1).

Subsec. (c). Pub. L. 92–179, § 1(b), added subsec. (c), consisting of provisions formerly set out preceding par. (1) of subsec. (a).

EXECUTIVE ORDER NO. 11007

Ex. Ord. No. 11007, Feb. 27, 1962, 27 F.R. 1875, set out as a note under this section, was superseded by Ex. Ord. No. 11671, June 5, 1972, 37 F.R. 11307.

EXECUTIVE ORDER NO. 11671

Ex. Ord. No. 11671, June 5, 1972, 37 F.R. 11307, formerly set out as a note under this section, which related to committee management, was superseded by Ex. Ord. No. 11686, Oct. 7, 1972, 37 F.R. 21421, set out in the Appendix to this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 903 of this title.

§ 903. Reorganization plans.

(a) Whenever the President, after investigation, finds that changes in the organization of agencies are necessary to carry out any policy set forth in section 901(a) of this title, he shall prepare a reorganization plan specifying the reorganizations he finds are necessary. Any plan may provide for—

(1) the transfer of the whole or a part of an agency, or of the whole or a part of the functions thereof, to the jurisdiction and control of another agency;

(2) the abolition of all or a part of the functions of an agency;

(3) the consolidation or coordination of the whole or a part of an agency, or of the whole or a part of the functions thereof, with the whole or a part of another agency or the functions thereof;

(4) the consolidation or coordination of a part of an agency or the functions thereof with another part of the same agency or the functions thereof;

(5) the authorization of an officer to delegate any of his functions; or

(6) the abolition of the whole or a part of an agency which agency or part does not have, or on the taking effect of the reorganization plan will not have, any functions.

The President shall transmit the plan (bearing an identification number) to the Congress together with a declaration that, with respect to each reorganization included in the plan, he has found that the reorganization is necessary to carry out any policy set forth in section 901(a) of this title.

(b) The President shall have a reorganization plan delivered to both Houses on the same day and to each House while it is in session, and furthermore shall not transmit more than one such plan to Congress within any period of thirty consecutive days. In his message transmitting a reorganization plan, the President shall specify with respect to each

abolition of a function included in the plan the statutory authority for the exercise of the function and the reduction of expenditures (itemized so far as practicable) that it is probable will be brought about by the taking effect of the reorganizations included in the plan. (As amended Pub. L. 92–179, § 2, Dec. 10, 1971, 85 Stat. 574.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–179, § 2(a), restructured provisions covering requirements of findings of fact and certification by placing in a position preceding par. (1) provisions formerly set out following par. (6).

Subsec. (b). Pub. L. 92–179, § 2(b), inserted provisions limiting to one plan within any period of thirty consecutive days the allowable number of plans submitted.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 902, 904 of this title.

§ 904. Additional contents of reorganization plans.

A reorganization plan transmitted by the President under section 903 of this title—

(1) may change, in such cases as the President considers necessary, the name of an agency affected by a reorganization and the title of its head, and shall designate the name of an agency resulting from a reorganization and the title of its head;

(2) may provide for the appointment and pay of the head and one or more officers of an agency (including an agency resulting from a consolidation or other type of reorganization) if the President finds, and in his message transmitting the plan declares, that by reason of a reorganization made by the plan the provisions are necessary;

(3) shall provide for the transfer or other disposition of the records, property, and personnel affected by a reorganization;

(4) shall provide for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with a function or agency affected by a reorganization, as the President considers necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have the functions after the reorganization plan is effective; and

(5) shall provide for terminating the affairs of of an agency abolished.

A reorganization plan transmitted by the President containing provisions authorized by paragraph (2) of this section may provide that the head of an agency be an individual or a commission or board with more than one member. In the case of an appointment of the head of such an agency, the term of office may not be fixed at more than four years, the pay may not be at a rate in excess of that found by the President to be applicable to comparable officers in the executive branch, and if the appointment is not to a position in the competitive service, it shall be by the President, by and with the advice and consent of the Senate, except that, in the case of an officer of the government of the District of Columbia, it may be by the Commissioner or other body or officer of that government designated in the plan. Any reorganization plan transmitted by the President containing provisions required by paragraph (4) of this section, shall provide for the transfer of unexpended balances only if such balances are used for the purposes for which the appropriation was originally made. (As amended Pub. L. 92–179, § 3, Dec. 10, 1971, 85 Stat. 575.)

AMENDMENTS

1971—Pub. L. 92–179 revised the form of the provisions covering the elements which a reorganization plan contains by moving provisions formerly set out in par. (2) to a position following par. (5).

§ 905. Limitations on powers.

(a) A reorganization plan may not provide for, and a reorganization under this chapter may not have the effect of—

* * * * *

(5) increasing the term of an office beyond that provided by law for the office;

(6) transferring to or consolidating with another agency the government of the District of Columbia or all the functions thereof which are subject to this chapter, or abolishing that government or all those functions; or

(7) dealing with more than one logically consistent subject matter.

(b) A provision contained in a reorganization plan may take effect only if the plan is transmitted to Congress before April 1, 1973. (As amended Pub. L. 92–179, § 4, Dec. 10, 1971, 85 Stat. 576.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–179, § 4(a), added par. (7).

Subsec. (b). Pub. L. 92–179, § 4(b), substituted "April 1, 1973" for "April 1, 1971".

§ 911. Discharge of committee considering resolution.

(a) If the committee to which a resolution with respect to a reorganization plan has been referred has not reported it at the end of 20 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the reorganization plan which has been referred to the committee.

* * * * *

(As amended Pub. L. 92–179, § 5, Dec. 10, 1971, 85 Stat. 576.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–179 substituted "20 calendar days" for "10 calendar days".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 908, 909 of this title.

§ 912. Procedure after report or discharge of committee; debate.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 2941.

Part II.—THE UNITED STATES CIVIL SERVICE COMMISSION

Chapter 11.—ORGANIZATION

§ 1104. Functions of Chairman.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan. No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section

102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Office of Management and Budget note set out under this section in the main volume.

Chapter 13.—SPECIAL AUTHORITY

§ 1305. Hearing examiners.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, excluding committees composed wholly of full-time officers or employees of the Federal Government, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to this title.

§ 1308. Annual reports.

* * * * *

(b) The Commission shall annually provide an analysis to Congress of the administration and operation of chapter 41 of this title.

* * * * *

(As amended Pub. L. 93-156, Nov. 21, 1973, 87 Stat. 623.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93-156 substituted requirement that Commission provide annually an analysis to Congress of the administration and operation of chapter 41 of this title, for prior requirement that Commission report annually to the President for transmittal to Congress on the administration of chapter 41 of this title, including the information received by the Commission from the agencies under section 4113(b) (2) and (3) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1104 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-691a, 31-696, 31-728, 31-1403 of the District of Columbia Code.

Chapter 15.—POLITICAL ACTIVITY OF CERTAIN STATE AND LOCAL EMPLOYEES

Sec.
1503. Nonpartisan candidacies permitted.

AMENDMENTS

1974—Pub. L. 93-443, title IV, § 401(b)(2), Oct. 15, 1974, 88 Stat. 1290, substituted "candidacies" for "political activity" in item 1503.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 23 sections 103, 142; title 29 sections 848, 990; title 42 sections 2930e, 2996e; title 49 section 1604.

§ 1501. Definitions.

For the purpose of this chapter—

(1) "State" means a State or territory or possession of the United States;

(2) "State or local agency" means the executive branch of a State, municipality, or other political subdivision of a State, or an agency or department thereof;

(3) "Federal agency" means an executive agency or other agency of the United States, but does not include a member bank of the Federal Reserve System; and

(4) "State or local officer or employee" means an individual employed by a State or local agency whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a Federal agency, but does not include—

(A) an individual who exercises no functions in connection with that activity; or

(B) an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by a State or political subdivision thereof, or by a recognized religious, philanthropic, or cultural organization.

* * * * *

(As amended Pub. L. 93-443, title IV, § 401(c), Oct. 15, 1974, 88 Stat. 1290.)

AMENDMENTS

1974—Par. (5). Pub. L. 93-443 deleted par. (5) which defined "an active part in political management or in political campaigns".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as a note under section 431 of Title 2, The Congress.

§ 1502. Influencing elections; taking part in political campaigns; prohibitions; exceptions.

(a) A State or local officer or employee may not—

(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

(2) directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes; or

(3) be a candidate for elective office.

* * * * *

(As amended Pub. L. 93-443, title IV, § 401(a), Oct. 15, 1974, 88 Stat. 1290.)

AMENDMENTS

1974—Subsec. (a)(3). Pub. L. 93-443 substituted "be a candidate for elective office" for "take an active part in political management or in political campaigns".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as a note under section 431 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1503, 1504, 1505, 1506 of this title; title 42 sections 2930e, 2996f.

§ 1503. Nonpartisan candidacies permitted.

Section 1502(a)(3) of this title does not prohibit any State or local officer or employee from being a candidate in any election if none of the candidates is to be nominated or elected at such election as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected. (As amended Pub. L. 93-443, title IV, § 401(b)(1), Oct. 15, 1974, 88 Stat. 1290.)

AMENDMENTS

1974—Pub. L. 93-443 substituted "candidacies" for "political activity" in the catchline and provision permitti. g nonpartisan candidacies for prior provision permitting political activity in connection with (1) an

election and the preceding campaign if none of the candidates was to be nominated or elected at that election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected, or (2) a question which was not specifically identified with a National or State political party and deeming questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character as not specifically identified with a National or State political party.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as a note under section 431 of Title 2, The Congress.

Part III.—EMPLOYEES

PART III REFERRED TO IN OTHER SECTIONS

This part is referred to in title 42 section 3056b.

Subpart A.—General Provisions

Chapter 21.—DEFINITIONS

Sec.

2109. Air traffic controller.

AMENDMENTS

1972—Pub. L. 92-297, § 1(b), May 16, 1972, 86 Stat. 141, added item 2109.

§ 2102. The competitive service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 2000e.

§ 2105. Employee.

* * * * *

(c) An employee paid from nonappropriated funds of the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Ship's Stores Ashore, Navy exchanges, Marine Corps exchanges, Coast Guard exchanges, and other instrumentalities of the United States under the jurisdiction of the armed forces conducted for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the armed forces is deemed not an employee for the purpose of—

(1) laws (other than subchapter IV of chapter 53 and sections 5550 and 7154 of this title) administered by the Civil Service Commission; or

* * * * *

(As amended Pub. L. 92-392, § 2, Aug. 19, 1972, 86 Stat. 573.)

AMENDMENTS

1972—Subsec. (c)(1). Pub. L. 92-392 substituted "laws (other than subchapter IV of chapter 53 and sections 5550 and 7154 of this title)" for "laws".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-392 effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

PROHIBITION OF DECREASE IN BASIC PAY RATE OF EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES

Amendments by Pub. L. 92-392 not to decrease basic pay rate of subsec. (c) employees in service before effective date of the amendments as to such employees, see section 9(a)(2) of Pub. L. 92-392, set out as a note under section 5343 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3551, 4501, 5342, 5506, 5515, 5537, 5551, 5552, 5581, 5595, 5751, 5945, 5946, 6103, 6104, 6301, 6322, 6323, 7342, 8171, 8172, 8173, 8311, 8331, 8701, 8901 of this title; title 25 section 4501.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 39-201 of the District of Columbia Code.

§ 2107. Congressional employee.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 section 31b-5.

§ 2108. Veteran; disabled veterans; preference eligible.

For the purpose of this title—

* * * * *

(3) "preference eligible" means—

* * * * *

(D) the unmarried widow or widower of a veteran as defined by paragraph (1)(A) of this section;

(E) the wife or husband of a service-connected disabled veteran if the veteran has been unable to qualify for any appointment in the civil service or in the government of the District of Columbia;

* * * * *

(As amended Pub. L. 92-187, § 1, Dec. 15, 1971, 85 Stat. 644.)

AMENDMENTS

1971—Par. (3)(D). Pub. L. 92-187 inserted "or widower" following "unmarried widow".

Par. (3)(E). Pub. L. 92-187 inserted "or husband" following "the wife".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3305, 3309, 3318 of this title; title 22 section 1234; title 32 section 709; title 39 section 1005.

§ 2109. Air traffic controller.

For the purpose of this title, "air traffic controller" or "controller" means an employee of the Department of Transportation who is actively engaged in the separation and control of air traffic, or who is the immediate supervisor of an employee actively engaged in the separation and control of air traffic, in an air traffic control facility. The Secretary of Transportation may prescribe regulations to determine the application of this section. (Added Pub. L. 92-297, § 1(a), May 16, 1972, 86 Stat. 141).

EFFECTIVE DATE

Section effective on the 90th day after May 16, 1972, see, section 10 of Pub. L. 92-297, set out as a note under section 3381 of this title.

Chapter 29.—COMMISSIONS, OATHS, RECORDS, AND REPORTS

§ 2902. Commission; where recorded.

* * * * *

(b) The commission of an officer in the civil service or uniformed services under the control of the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of a military department, the Secretary of the Interior, or the Secretary of the Treasury shall be made out and recorded in the department in which he is to serve under the seal of that department. The departmental seal may not be affixed to the commission before the commission has been signed by the President.

* * * * *

(As amended Pub. L. 94-183, § 2(3), Dec. 31, 1975, 89 Stat. 1057.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94–183 deleted "the Postmaster General," which followed "under the control of".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 4 section 42.

Subpart B.—Employment and Retention

Chapter 31.—AUTHORITY FOR EMPLOYMENT

§ 3104. Employment of specially qualified scientific and professional personnel.

CHANGE OF NAME

The Patent Office, referred to in subsec. (a)(4), was redesignated the Patent and Trademark Office by Pub. L. 93–596, § 3, Jan. 2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3325, 5361 of this title; title 49 section 1655.

§ 3105. Appointment of hearing examiners.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 sections 661, 792; title 33 section 919; title 42 section 2000e–4; title 47 section 410.

§ 3106. Employment of attorneys; restrictions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 810.

§ 3109. Employment of experts and consultants; temporary or intermittent.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 575, 5612 of this title; title 7 section 16; title 12 section 2405; title 15 sections 2051, 636, 766, 1042, 2206, 2218, 2451; title 16 sections 469b, 1406; title 18 sections 3153, 3168, 4352; title 19 section 2171; title 20 sections 959, 2012, 2106; title 22 sections 272a, 277d–3, 280b, 280l, 280k, 290b, 290f, 2024, 2103, 2512, 2581, 2825, 2847, 2873, 2905; title 23 section 303; title 25 section 640d–11; title 29 sections 656 671, 676, 1302; title 31 sections 52c, 1154; title 40 section 873; title 42 sections 242*l*, 286d, 287b, 300k–3, 386d, 1975d, 2473, 3035a, 3211, 3765, 5042, 5149, 5612, 5816; title 43 section 161; title 44 section 3319; title 45 section 715; title 49 section 1903; title 50 App. sections 2158, 2158a, 2169.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 1–1002, 4–533a, 11–1525, 31–1715 of the District of Columbia Code.

§ 3110. Employment of relatives; restrictions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 410.

Chapter 33.—EXAMINATION, SELECTION, AND PLACEMENT

SUBCHAPTER I.—EXAMINATION, CERTIFICATION AND APPOINTMENT

Sec.
3307. Competitive service; maximum-age entrance requirements; exceptions.
3315a.[1] Registers; individuals receiving compensation for work injuries.

SUBCHAPTER V.—PROMOTION

3361. Promotion; competitive service; examination.
3362. Promotion; effect of incentive award.
3363. Preference eligibles; promotion; physical qualifications; waiver.

SUBCHAPTER VII.—AIR TRAFFIC CONTROLLERS

3381. Training.

[1] Section repealed without corresponding repeal of item in chapter analysis.

Sec.
3382. Involuntary separation for retirement.
3383. Determinations; review procedures.
3384. Regulations.
3385. Effect on other authority.

AMENDMENTS

1975—Pub. L. 94–183, § 2(7), Dec. 31, 1975, 89 Stat. 1057, struck out item 3364 "Promotion; substitute employees in the postal field service".

1972—Pub. L. 92–297, §§ 2(b), 3(b) May 16, 1972, 86 Stat. 142, 144, substituted "maximum age entrance requirements, exceptions" for "maximum age requirement; restriction on use of appropriated funds" in item 3307, and added subchapter VII and items 3381 to 3385.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 section 5404.

SUBCHAPTER I.—EXAMINATION, CERTIFICATION, AND APPOINTMENT

§ 3301. Civil service; generally.

EX. ORD. NO. 10577, CIVIL SERVICE RULES

Ex. Ord. No. 10577, Nov. 22, 1954, 19 F.R. 7521, eff. Jan. 23, 1955, as amended by Ex. Ord. No. 10641, Oct. 26, 1955, 20 F.R. 8137; Ex. Ord. No. 10675, Aug. 21, 1956, 21 F.R. 6327 eff. Jan. 23, 1956; Ex. Ord. No. 10745, Dec. 12, 1957, 22 F.R. 10025; Ex. Ord. No. 10869, Mar. 9, 1960, 25 F.R. 2073; Ex. Ord. No. 11315, Nov. 17, 1966, 31 F.R. 14729; Ex. Ord. No. 11839, Feb. 15, 1975, 40 F.R. 7351; Ex. Ord. No. 11856, May 7, 1975, 40 F.R. 20259; Ex. Ord. No. 11887, Nov. 4, 1975, 40 F.R. 51411, provided:

PART I—CIVIL SERVICE RULES

SECTION 101. The Civil Service Rules are hereby amended to read as follows:

* * * * *

RULE VI—EXCEPTIONS FROM THE COMPETITIVE SERVICE

* * * * *

§ 6.8 SPECIFIED EXCEPTIONS

Positions in the Department of the Interior and in the Department of Commerce whose incumbents serve as the principal representative of the Secretary in their respective regions shall be listed in Schedule C for grades not exceeding grade GS–15 of the General Schedule, and shall be designated Noncareer Executive Assignments for positions grated higher than GS–15. Incumbents of these positions who are, on February 15, 1975, in the competitive service shall not be affected by the foregoing provisions of this Section.

* * * * *

RULE IX—EXECUTIVE, ASSIGNMENT SYSTEM FOR POSITIONS IN GRADES GS–16, 17, AND 18 OF THE GENERAL SCHEDULE

In General

* * * * *

SEC. 9.11. SPECIFIED NONCAREER EXECUTIVE ASSIGNMENTS

The regional director, regional administrator, or the Secretary's principal regional representative positions in the Department of Health, Education, and Welfare, Housing and Urban Development, Transportation and Labor, and those positions in the Environmental Protection Agency and the Small Business Administration shall be designated Noncareer Executive Assignments; and, the Limited Executive Assignments of any incumbents of these positions on February 15, 1975, are converted to Noncareer Executive Assignments. Incumbents of these positions serving in Career Executive Assignments on February 15, 1975, shall not be affected by the foregoing provisions of this Section.

* * * * *

EXECUTIVE ORDER NO. 11202

Ex. Ord. No. 11202, Mar. 5, 1965, 30 F.R. 3185, set out as a note under this section, which established career or career-conditional appointments for student trainees, was revoked by Ex. Ord. No. 11813, Oct. 7, 1974, 39 F.R. 36317, set out as a note under this section.

EXECUTIVE ORDER NO. 11598

Ex. Ord. No. 11598, June 16, 1971, 36 F.R. 11711, formerly set out as a note under this section, which related to the listing of certain job vacancies by federal agencies and government contractors and subcontractors, was superseded by Ex. Ord. No. 11701, Jan. 24, 1973, 38 F.R. 2675, set out as a note under section 2012 of Title 38, Veterans' Benefits.

EX. ORD. NO. 11813. CAREER OR CAREER-CONDITIONAL APPOINTMENTS FOR COOPERATIVE EDUCATION STUDENTS

Ex. Ord. No. 11813, Oct. 7, 1974, 39 F.R. 36317, provided: By virtue of the authority vested in me by sections 1301 and 3301 of title 5 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. As used in this order, "cooperative education" describes a program which provides for a formally arranged schedule of periods of attendance at an institution of higher learning combined with periods of study-related work in a Federal agency under a Schedule B appointment. Together, the periods of work and study satisfy requirements for a bachelor's degree and provide experience necessary for a career or career-conditional appointment to an administrative, professional, or technical position in the Federal Government upon the student's graduation.

SEC. 2. Under this order, the appointment of a cooperative education student under Schedule B of the civil service rules may be converted noncompetitively to a career-conditional or career appointment if the student:

(1) has completed within the preceding 90 days a cooperative education program that meets the provisions of this order;

(2) has satisfied all requirements leading to the award of a bachelor's degree by the college or university in which the student completed his or her cooperative education curriculum;

(3) is recommended for such appointment by the employing agency; and,

(4) satisfies all other applicable requirements and conditions prescribed by the Civil Service Commission for career and career-conditional employment.

SEC. 3. The Civil Service Commission shall prescribe such regulations as may be necessary to carry out the provisions of this order and to provide for the coordination of the planning, implementation, and evaluation of employment of cooperative education students throughout the Government. The regulations shall provide for the periodic evaluation of the work of each cooperative education student and shall require that continuation in the program be dependent upon a finding of satisfactory performance.

SEC. 4. Executive Order No. 11202 of March 5, 1965, is hereby revoked.

SEC. 5. This order shall become effective immediately.

GERALD R. FORD.

EX. ORD. NO. 11839. AMENDING THE CIVIL SERVICE RULES TO EXCEPT CERTAIN POSITIONS IN REGIONAL OFFICES FROM THE CAREER SERVICE

Ex. Ord. No. 11839, Feb. 15, 1975, 40 F.R. 7351, provided: The program to decentralize Federal policy and decision making and to involve local governments and other interested parties in Federal, State, and local policy and program development requires a capability for deep involvement in the development and advocacy of Administration proposals and policies, and support of their controversial aspects, on the part of certain senior regional officials.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution of the United States and Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Civil Service Rule VI is amended by adding the following Section:

"SECTION 6.8. SPECIFIED EXCEPTIONS

"Positions in the Department of the Interior whose incumbents serve as the principal representative of the Secretary in their respective regions shall be listed in Schedule C for grades not exceeding grade GS–15 of the General Schedule and shall be designated Noncareer Executive Assignments for positions graded higher than GS–15. Incumbents of these positions who are, on February 15, 1975, in the competitive service shall not be affected by the foregoing provisions of this Section."

SEC. 2. Civil Service Rule IX is amended by adding the following:

"SEC. 9.11. SPECIFIED NONCAREER EXECUTIVE ASSIGNMENTS

"The regional director, regional administrator, or the Secretary's principal regional representative positions in the Department of Health, Education, and Welfare, Housing and Urban Development, Transportation and Labor, and those positions in the Environmental Protection Agency shall be designated Noncareer Executive Assignments; and, the Limited Executive Assignments of any incumbents of these positions on February 15, 1975, are converted to Noncareer Executive Assignments. Incumbents of these positions serving in Career Executive Assignments on February 15, 1975, shall not be affected by the foregoing provisions of this Section."

GERALD R. FORD.

EX. ORD. NO. 11856. AMENDING THE CIVIL SERVICE RULES TO EXCEPT CERTAIN POSITIONS IN REGIONAL OFFICES FROM THE CAREER SERVICE

Ex. Ord. No. 11856, May 7, 1975, 40 F.R. 20259, provided: By virtue of the authority vested in me by the Constitution of the United States of America and Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, Section 9.11 of Civil Service Rule IX is amended by adding "and the Small Business Administration" after "Environmental Protection Agency."

GERALD R. FORD.

EX. ORD. NO. 11887. AMENDING THE CIVIL SERVICE RULES TO EXCEPT CERTAIN POSITIONS FROM THE CAREER SERVICE

Ex Ord. No. 11887, Nov. 4, 1975, 40 F.R. 51411, provided: By virtue of the authority vested in me by the Constitution of the United States of America and Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, Section 6.8 of Civil Service Rule VI is amended by adding "and in the Department of Commerce" after "Department of the Interior".

GERALD R. FORD.

§ 3304. Competitive service; examinations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3302 of this title; title 38 section 2023; title 40 section 42.

§ 3305. Competitive service; examinations; when held.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 section 42.

§ 3307. Competitive service; maximum-age entrance requirements; exceptions.

(a) Except as provided in subsections (b), (c), and (d) of this section appropriated funds may not be used to pay an employee who establishes a maximum-age requirement for entrance into the competitive service.

(b) The Secretary of Transportation may, with the concurrence of such agent as the President may designate, determine and fix the maximum limit of age within which an original appointment to a position as an air traffic controller may be made.

(c) The Secretary of the Interior may determine and fix the minimum and maximum limits of age within which original appointments to the United States Park Police may be made.

(d) The head of any agency may, with the concurrence of such agent as the President may designate, determine and fix the minimum and maxi-

mum limits of age within which an original appointment may be made to a position as a law enforcement officer or firefighter, as defined by section 8331 (20) and (21), respectively, of this title. (As amended Pub. L. 92–297, § 2(a), May 16, 1972, 86 Stat. 141; Pub. L. 93–350, § 1, July 12, 1974, 88 Stat. 355.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–350, § 1(1), inserted reference to subsec. (d).

Subsec. (d). Pub. L. 93–350, § 1(2), added subsec. (d).

1972—Pub. L. 92–297 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 7 of Pub. L. 93–350 provided that: "The amendments made by the first section [amending this section], and sections 2(b) [adding pars. (20) and (21) to section 8331 of this title]; 5 [amending section 8336(c) of this title], and 6 [amending section 8339 (d) of this title], of this Act shall become effective on the date of enactment of this Act [July 12, 1974]. The amendments made by sections 2(a) [amending section 8331(3) of this title] and 3 [amending section 8334 of this title] of this Act shall become effective at the beginning of the first applicable pay period which begins after December 31, 1974. The amendment made by section 4 of this Act [enacting section 8335(g) of this title] shall become effective on January 1, 1978."

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–297 effective on the 90th day after May 16, 1972, see section 10 of Pub. L. 92–297, set out as a note under section 3381 of this title.

UNITED STATES PARK POLICE; AGE LIMITS FOR ORIGINAL APPOINTMENTS

Pub. L. 91–73, Sept. 26, 1969, 83 Stat. 116, which provided for age limits for appointments to the United States Park Police, was repealed by Pub. L. 92–297, § 11, May 16, 1972, 86 Stat. 145, effective at the end of the 89th day after May 16, 1972. The Secretary of the Interior may now fix age limits for appointment under subsec. (c) of this section.

EX. ORD. NO. 11817. CIVIL SERVICE COMMISSION DESIGNATED AGENT TO CONCUR WITH AGENCY DETERMINATIONS FIXING AGE LIMITS FOR MAKING ORIGINAL APPOINTMENTS RESPECTING LAW ENFORCEMENT OFFICER AND FIREFIGHTER POSITIONS

Ex. Ord. No. 11817, Nov. 5, 1974, 39 F.R. 39427, provided: By virtue of the authority vested in me by section 3307(d) of title 5 of the United States Code, as added by the first section of the Act of July 12, 1974 (Public Law 93–350; 88 Stat. 355), I hereby designate the United States Civil Service Commission as the agency to concur with determinations made by agencies to fix the minimum and maximum limits of age within which an original appointment may be made to a position as a law enforcement officer or fire fighter, as defined by section 8331 (20) and (21), respectively, of title 5 of the United States Code. The designation made by this order shall be effective as of October 15, 1974.

GERALD R. FORD.

§ 3315a. Repealed. Pub. L. 93–416, § 22(c), Sept. 7, 1974, 88 Stat. 1150.

Section, Pub. L. 89–488, § 6, July 4, 1966, 80 Stat. 253, as added Pub. L. 90–83 § 1(9)(A), Sept. 11, 1967, 81 Stat. 197, related to registration by the Civil Service Commission of employees receiving compensation for injuries for certification for appointment to vacant positions.

§ 3320. Excepted service; government of the District of Columbia; selection.

ASSISTANCE OF UNITED STATES CIVIL SERVICE COMMISSION IN DEVELOPING MERIT SYSTEM FOR DISTRICT OF COLUMBIA

Pub. L. 93–198, title VII, § 734, Dec. 24, 1973, 87 Stat. 823, authorized the United States Civil Service Commission to advise and assist the District of Columbia Mayor and Council in the further development of the merit system or systems required by the District of Columbia charter, which was approved on May 7, 1974, and authorized the Commission to enter into agreements with the District government to make available its registers of eligibles as a recruiting source to fill District positions as needed, with the costs of any specific services furnished by the Civil Service Commission to be compensated for under the provisions of seciton 685a of Title 31, Money and Finance.

§ 3323. Automatic separations; reappointment; reemployment of annuitants.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 2512.

§ 3324. Appointments at GS–16, 17, and 18.

TRANSFER OF FUNCTIONS

The Office of Emergency Preparedness, including the offices of Director, Deputy Director, Assistant Directors, and Regional Directors, was abolished and all functions vested by law in the Office of Emergency Preparedness or the Director of the Office of Emergency Preparedness were transferred to the President of the United States by sections 1 and 3(a)(1) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to this title.

SUBCHAPTER II.—OATH OF OFFICE

§ 3331. Oath of office.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 section 64–1; title 22 section 2504; title 42 section 1971; title 50 App. section 455.

§§ 3332, 3333.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in title 22 section 991.

SUBCHAPTER III.—DETAILS

§ 3344. Details; hearing examiners.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 661; title 42 section 2000e–4.

§ 3347. Details; Presidential authority.

EXECUTIVE ORDER NO. 9967

Ex. Ord. No. 9967, June 12, 1948, 13 F.R. 3249, set out as a note under this section, which related to the designation of officers of the Department of Agriculture to act as Secretary of Agriculture, was superseded by Ex. Ord. No. 10481, Aug. 15, 1953, 18 F.R. 4944, set out as a note under this section.

EXECUTIVE ORDER NO. 10481

Ex. Ord. No. 10481, Aug. 15, 1953, 18 F.R. 4944, formerly set out as a note under this section, which provided for the designation of certain officers of the Department of Agriculture to act as Secretary of Agriculture, was revoked by Ex. Ord. No. 11793, July 10, 1974, 39 F.R. 25631, set out as a note under this section.

EXECUTIVE ORDER NO. 10941

Ex. Ord. No. 10941, May 16, 1961, 26 F.R. 4277, set out as a note under this section, which provided for the order of succession in the Treasury Department, was revoked by Ex. Ord. No. 11680, Aug. 21, 1972, 37 F.R. 116907, set out as a note under this section.

EXECUTIVE ORDER NO. 11388

Ex. Ord. No. 11388, Jan. 15, 1968, 33 F.R. 563, set out as a note under this section, which related to the designation of officers of the Department of Commerce to act as Secretary of Commerce, was superseded by Ex. Ord. No. 11880, Oct. 2, 1975, 40 F.R. 46089, set out as a note under this section.

EXECUTIVE ORDER NO. 11680

Ex. Ord. No. 11680, Aug. 21, 1972, 37 F.R. 16907, for merly set out as a note under this section, which provided for the order of succession in the Treasury Department, was revoked by Ex. Ord. No. 11822, Dec. 10, 1974, 39 F.R. 43275, set out as a note under this section.

EX. ORD. NO. 11793. DESIGNATION OF CERTAIN OFFICERS OF THE DEPARTMENT OF AGRICULTURE TO ACT AS SECRETARY OF AGRICULTURE

Ex. Ord. No. 11793, July 10, 1974, 39 F.R. 25631, provided:

Under and by virtue of the authority vested in me by section 3347 of title 5 [this section] and section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. In case of the absence, sickness, resignation, or death of the Secretary of Agriculture and the Under Secretary of Agriculture, an Assistant Secretary of Agriculture or the General Counsel of the Department of Agriculture, in such order as the Secretary of Agriculture may from time to time prescribe, shall act as Secretary of Agriculture. If no such order of succession is in effect at that time, they shall act as Secretary in the order in which they shall have taken office as Assistant Secretary or General Counsel.

SEC. 2. Executive Order No. 10481 of August 15, 1953, entitled "Designation of Certain Officers of the Department of Agriculture to Act as Secretary of Agriculture", is hereby revoked.

RICHARD NIXON.

EX. ORD. NO. 11822. DESIGNATION OF OFFICERS OF THE DEPARTMENT OF THE TREASURY TO ACT AS SECRETARY OF THE TREASURY

Ex. Ord. No. 11822, Dec. 10, 1974, 39 F.R. 43275, provided:

By virtue of the authority vested in me by section 3347 of title 5 [this section] and section 301 of title 3 of the United States Code and as President of the United States, it is ordered as follows:

SECTION 1. During any period when, by reason of absence, disability, or vacancy in office, either the Secretary of the Treasury or his Deputy Secretary is not available to exercise the powers or perform the duties of the office of Secretary, an officer from the Department of the Treasury appointed by the President—by and with the advice and consent of the Senate, in such order as the Secretary of the Treasury may from time to time prescribe—shall act as Secretary until the absence or the disability of the incumbent shall cease, or until a successor is appointed. If no such order of succession is in effect at that time, then such officers shall act as Secretary in the descending order of rank, as established by their offices being listed in sections 5314, 5315 or 5316 of title 5 of the United States Code and, at each level of the Executive Schedule, in the order which they shall have taken the oath as such officers.

SECTION 2. Executive Order No. 11680 of August 21, 1972, entitled "Designation of Certain Officers to Act as Secretary of the Treasury" is hereby revoked.

GERALD R. FORD.

EX. ORD. NO. 11880. DESIGNATION OF OFFICERS OF THE DEPARTMENT OF COMMERCE TO ACT AS SECRETARY OF COMMERCE

Ex. Ord. No. 11880, Oct. 2, 1975, 40 F.R. 46089, provided:

By virtue of the authority vested in me by section 3347 of Title 5 of the United States Code and section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. During any period when, by reason of absence, disability or vacancy in office, both the Secretary of Commerce and the Under Secretary of Commerce are not available to exercise the powers or perform the duties of the Office of Secretary, an Assistant Secretary of Commerce, the General Counsel of the Department of Commerce, or an officer of the Department of Commerce appointed by the President with the advice and consent of the Senate, in such order as the Secretary of Commerce may from time to time prescribe, shall act as Secretary. If no such order of succession is in effect at that time, an Assistant Secretary or the General Counsel shall act as Secretary in the order in which they shall have taken office as Assistant Secretaries or General Counsel.

SEC. 2. This Order supersedes Executive Order No. 11388 of January 15, 1968.

GERALD R. FORD.

SUBCHAPTER IV.—TRANSFERS

§ 3351. Preference eligibles; transfer; physical qualifications; waiver.

In determining qualifications of a preference eligible for transfer to another position in the competitive service, an Executive agency, or the government of the District of Columbia, the Civil Service Commission or other examining agency shall waive—

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the Commission or other examining agency, after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position.

This section does not apply to an appointment required by Congress to be confirmed by, or made with the advice and consent of, the Senate. (As amended Pub. L. 94–183, § 2(4), Dec. 31, 1975, 89 Stat. 1057.)

AMENDMENTS

1975—Pub. L. 94–183 deleted ", except an appointment made under section 3311 of title 39" which followed "or made with the advice and consent of, the Senate".

SUBCHAPTER V.—PROMOTION

§ 3363. Preference eligibles; promotion; physical qualifications; waiver.

In determining qualifications of a preference eligible for promotion to another position in the competitive service, an Executive agency, or the government of the District of Columbia, the Civil Service Commission or other examining agency shall waive—

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the Commission or other examining agency, after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position.

This section does not apply to an appointment required by Congress to be confirmed by, or made with the advice and consent of, the Senate. (As amended Pub. L. 94–183, § 2(5), Dec. 31, 1975, 89 Stat. 1057.)

AMENDMENTS

1975—Pub. L. 94–183 deleted ", except an appointment made under section 3311 of title 39" which followed "or made with the advice and consent of, the Senate".

§ 3364. Repealed. Pub. L. 94–183, § 2(6), Dec. 31, 1975, 89 Stat. 1057.

Section, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 427, related to promotion to the regular force of substitute employees in the postal field service.

SUBCHAPTER VI.—ASSIGNMENTS TO AND FROM STATES

§ 3371. Definitions.

For the purpose of this subchapter—

* * * * *

(2) "local government" means—

(A) any political subdivision, instrumentality, or authority of a State or States as defined in subparagraph (A) of paragraph (1);

(B) any general or special purpose agency of such a political subdivision, instrumentality, or authority;

(C) any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village as defined in the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and includes any tribal organization as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act.

(As amended Pub. L. 93–638, title I, § 105(a), Jan. 4, 1975, 88 Stat. 2208.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act (85 Stat. 688), referred to in par. (2)(C), is classified to section 1601 et seq. of Title 43, Public Lands.

Section 4(c) of the Indian Self-Determination and Education Assistance Act, referred to in par. (2)(C), is classified to section 450b(c) of Title 25, Indians.

AMENDMENTS

1975—Par. (2)(C). Pub. L. 93–638 added par. (2)(C).

§ 3372. General provisions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 4501.

§ 3374. Assignment of employees from State and local governments.

"From" substituted for "to" in section catchline in accordance with Pub. L. 91–648.

§ 3376. Regulations.

EX. ORD. NO. 11589. DELEGATION OF FUNCTIONS TO CIVIL SERVICE COMMISSION

Ex. Ord. No. 11589, Apr. 1, 1971, 36 F.R. 6343, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The United States Civil Service Commission is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the following:

(a) The authority of the President under section 3376 of title 5 of the United States Code [this section] to prescribe regulations for the administration of subchapter VI, "Assignments to and from States," of chapter 33 of that title [this chapter].

(b) The authority of the President under section 205(a)(4) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2286(a)(4)), and as affected by Reorganization Plan No. 1 of 1958 (72 Stat. 1799) [set out in the Appendix to this title], relating to the establishment and maintenance of personnel standards on the merit basis.

SEC. 2. To the extent that section 1(b) of this order is inconsistent with the provisions of Executive Order No. 10952 of July 20, 1961, as amended [set out as a note under section 2271 of Title 50, Appendix, War and National Defense], section 1(b) shall control.

RICHARD NIXON.

SUBCHAPTER VII.—AIR TRAFFIC CONTROLLERS

§ 3381. Training.

(a) An air traffic controller with 5 years of service as a controller who is to be removed as a controller because the Secretary of Transportation has determined—

(1) he is medically disqualified for duties as a controller;

(2) he is unable to maintain technical proficiency as a controller; or

(3) such removal is necessary for the preservation of the physical or mental health of the controller;

is entitled to not more than the full-time equivalent of 2 years of training.

(b) During a period of training under this section, a controller shall be—

(1) retained at his last assigned grade and rate of basic pay as a controller;

(2) entitled to each increase in rate of basic pay provided under law; and

(3) excluded from staffing limitations otherwise applicable.

(c) Upon completion of training under this section, a controller may be—

(1) assigned to other duties in the Department of Transportation;

(2) released for transfer to another Executive agency; or

(3) involuntarily separated from the service. The involuntary separation of a controller under this subsection is not a removal for cause on charges of misconduct, delinquency, or inefficiency for purposes of section 5595 or section 8336 of this title.

(d) The Secretary, without regard to section 529 of title 31, may pay, or reimburse a controller for, all or part of the necessary expenses of training provided under this section, including expenses authorized to be paid under chapter 41 and subchapter I of chapter 57 of this title, and the costs of other services or facilities directly related to the training of a controller.

(e) Except as provided by subsection (d) of this section, the provisions of chapter 41 of this title, other than sections 4105(a), 4107(a) and (b), and 4111, shall not apply to training under this section.

(f) The provisions of this section shall not otherwise affect the authority of the Secretary to provide training under chapter 41 of this title or under any other provision of law. (Added Pub. L. 92–297, § 3(a), May 16, 1972, 86 Stat. 142.)

EFFECTIVE DATE

Section 10 of Pub. L. 92–297 provided that: "This Act [enacting this subchapter and section 2109 of this title, amending sections 3307, 8332, 8334 to 8336, 8339, 8341, 8344 of this title, enacting provisions set out as notes under this section and section 8335 of this title, and repealing provisions set out as a note under section 3307 of this title] shall become effective at the beginning of the ninetieth day after the date of enactment of this Act [May 16, 1972]."

REPORT TO CONGRESS

Section 9 of Pub. L. 92–297 provided that: "The Secretary of Transportation shall make a report to the Congress of his operations under the amendments made by this Act [enacting this subchapter and section 2109 of this title, amending sections 3307, 8332, 8334 to 8336, 8339, 8341, 8344 of this title, enacting provisions set out as notes under this section and section 8335 of this title and repealing provisions set out as a note under section 3307 of this title]. The report shall include a detailed statement of the effectiveness of this Act in meeting the needs of the air traffic controller career program and of the air traffic control system, and any recommendations which the Secretary considers necessary or desirable for sound management of the program or the system. The Secretary shall make his report not later than 5 years after the date of enactment of this Act [May 16, 1972]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3382, 3383 of this title.

§ 3382. Involuntary separation for retirement.

An air traffic controller who is eligible for immediate retirement under section 8336 of this title may be separated involuntarily from the service if the Secretary of Transportation determines that the separation of the controller is necessary in the interest of—

(1) aviation safety;

(2) the efficient control of air traffic; or

(3) the preservation of the physical or mental health of the controller.

Chapter 75 of this title does not apply to a determination or action under this section. Separation under this section shall not become final, without the consent of the controller, until the last day of the second month following the day the controller receives a notification of the determination by the Secretary under this section, or, if a review is requested under section 3383 of this title, the last day of the month in which a final decision is issued by a board of review under section 3383(c) of this title, whichever is later. A controller who is to be separated under this section is entitled to training under section 3381 of this title. Separation of such a controller who elects to receive training under section 3381 shall not become final until the last day of the month following the completion of his training. (Added Pub. L. 92–297, § 3(a), May 16, 1972, 86 Stat. 142.)

EFFECTIVE DATE

Section effective on this 90th day after May 16, 1972, see section 10 of Pub. L. 92–297, set out as a note under section 3381 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3383 of this title.

§ 3383. Determinations; review procedures.

(a) An air traffic controller subject to a determination by the Secretary of Transportation under section 3381(a) or section 3382 of this title, shall be furnished a written notice of the determination and the reasons therefor, and a notification that the controller has 15 days after the receipt of the notification within which to file a written request for reconsideration of the determination. Unless the controller files such a request within the 15 days, or unless the determination is rescinded by the Secretary within the 15 days, the determination shall be final.

(b) If the Secretary does not rescind his determination within 15 days after his receipt of the written request filed by the controller under subsection (a) of this section, the Secretary shall immediately convene a board of review, consisting of—

(1) a person designated by the controller;

(2) a representative of the Department of Transportation designated by the Secretary; and

(3) a representative of the Civil Service Commission, designated by the Chairman, who shall serve as chairman of the board of review.

(c) The board of review shall review evidence supporting and inconsistent with the determination of the Secretary and, within a period of 30 days after being convened, shall issue its findings and furnish copies thereof to the Secretary and the controller. The board may approve or rescind the determination of the Secretary. A decision by the board under this subsection is final. The Secretary shall take such action as may be necessary to carry out the decision of the board.

(d) Except as provided under section 3382 of this title, the review procedure of this section is in addition to any other review or appeal procedures provided under any other provision of law, but is the sole and exclusive administrative remedy available to a controller within the Department of Transportation. (Added Pub. L. 92–297, § 3(a), May 16, 1972, 86 Stat. 143.)

EFFECTIVE DATE

Section effective on the 90th day after May 16, 1972, see section 10 of Pub. L. 92–297, set out as a note under section 3381 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3382 of this title.

§ 3384. Regulations.

The Secretary of Transportation is authorized to issue regulations to carry out the provisions of this subchapter. (Added Pub. L. 92–297, § 3(a), May 16, 1972, 86 Stat. 143.)

EFFECTIVE DATE

Section effective on the 90th day after May 16, 1972, see section 10 of Pub. L. 92–297, set out as a note under section 3381 of this title.

§ 3385. Effect on other authority.

This subchapter shall not limit the authority of the Secretary of Transportation to reassign temporarily an air traffic controller to other duties with or without notice, in the interest of the safe or efficient separation and control of air traffic or the physical or mental health of a controller; or to reassign permanently or separate a controller under any other provision of law. (Added Pub. L. 92–297, § 3(a), May 16, 1972, 86 Stat. 143.)

EFFECTIVE DATE

Section effective on the 90th day after May 16, 1972, see section 10 of Pub. L. 92–297, set out as a note under section 3381 of this title.

Chapter 35.—RETENTION PREFERENCE, RESTORATION, AND REEMPLOYMENT

§ 3501. Definitions; application.

* * * * *

(b) Except as otherwise provided by this subsection and section 3504 of this title, this subchapter applies to each employee in or under an Executive agency. This subchapter does not apply to an employee whose appointment is required by Congress to be confirmed by, or made with the advice and consent of, the Senate. (As amended Pub. L. 94–183, § 2(8), Dec. 31, 1975, 89 Stat. 1057.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94–183 deleted ", except an employee whose appointment is made under section 3311 of title 39" which followed "or made with the advice and consent of, the Senate".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3502, 6303 of this title; title 10 section 1586.

§ 3581. Definitions.

For the purpose of this subchapter—

* * * * *

(5) "reemployment" means—

(A) the reemployment of an employee under section 3582 (b) of this title; or

(B) the reemployment of a Congressional employee within 90 days from his separation from an international organization;

following a term of employment not extending beyond the period named by the head of the agency at the time of consent to transfer or, in the absence of a named period, not extending beyond the first 5 consecutive years, or any extension thereof, after entering the employ of the international organization.

(As amended Pub. L. 94–183, § 2(9), Dec. 31, 1975, 89 Stat. 1057.)

AMENDMENTS

1975—Subsec. (5)(A). Pub. L. 94–183 substituted "3582(b)" for "3582(a)".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3343 of this title.

§ 3582. Rights of transferring employees.

* * * * *

(b) An employee entitled to the benefits of subsection (a) of this section is entitled to be reemployed within 30 days of his application for reemployment in his former position or a position of like seniority, status, and pay in the agency from which he transferred, if—

(1) he is separated from the international organization within 5 years, or any extension thereof, after entering on duty with the international organization or within such shorter period as may be named by the head of the agency at the time of consent to transfer; and

(2) he applies for reemployment not later than 90 days after the separation.

On reemployment, he is entitled to the rate of basic pay to which he would be entitled had he remained in the civil service. On reemployment, the agency shall restore his sick leave account, by credit or charge, to its status at the time of transfer. The period of separation caused by his employment with the international organization and the period necessary to effect reemployment are deemed creditable service for all appropriate civil service employment purposes. On reemployment, he is entitled to be paid, under such regulations as the President may prescribe and from appropriations or funds of the agency from which transferred, an amount equal to the difference between the pay, allowances, post differential, and other monetary benefits paid by the international organization and the pay, allowances, post differential, and other monetary benefits that would have been paid by the agency had he been detailed to the international organization under section 3343 of this title. Such a payment shall be made to an employee who is unable to exercise his reemployment right because of disability incurred while on transfer to an international organization under this subchapter and, in the case of any employee who dies while on such a transfer or during the period after separation from the international organization in which he is properly exercising or could exercise his reemployment right, in accordance with subchapter VIII of chapter 55 of this title. This subsection does not apply to a congressional employee nor may any payment provided for in the preceding two sentences of this subsection be based on a period of employment with an international organization occurring before the first day of the first pay period which begins after December 29, 1969.

* * * * *

(As amended Pub. L. 94–183, § 2(10), Dec. 31, 1975, 89 Stat. 1057.)

AMENDMENTS

1975.—Subsec. (b). Pub. L. 94–183 substituted in last sentence "after December 29, 1969" for "on or after the date of enactment of the Foreign Assistance Act of 1969".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3581 of this title.

Subpart C.—Employee Performance

Chapter 41.—TRAINING

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1308, 3381 of this title; title 18 section 209; title 26 section 4941; title 38 section 1781; title 49 section 1354.

§ 4102. Exceptions; Presidential authority.

(a)(1) This chapter does not apply to—

(A) a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;

(B) the Tennessee Valley Authority; or

(C) an individual (except a commissioned officer of the Environmental Science Services Administration) who is a member of a uniformed service during a period in which he is entitled to pay under section 204 of title 37.

(2) This chapter (except sections 4110 and 4111) does not apply to—

(A) the Foreign Service of the United States; or

(B) an individual appointed by the President, unless the individual is specifically designated by the President for training under this chapter.

* * * * *

(As amended Pub. L. 94–183, § 2(11), Dec. 31, 1975, 89 Stat. 1057.)

AMENDMENTS

1975—Subsec. (a)(2)(B). Pub. L. 94–183 deleted "(except a Postmaster)" which followed "an individual appointed by the President".

EXECUTIVE ORDER NO. 11531

Ex. Ord. No. 11531, May 26, 1970, 35 F.R. 8337, set out as a note under this section, which related to the delegation of Presidential authority to designate United States Marshals and United States Attorneys for training, was superseded by Ex. Ord. No. 11895, Jan. 6, 1976, 41 F.R. 1465, set out as a note under this section.

EX. ORD. NO. 11895. DELEGATION OF PRESIDENTIAL AUTHORITY TO DESIGNATE INDIVIDUALS APPOINTED BY THE PRESIDENT TO RECEIVE TRAINING

Ex. Ord. No. 11895, Jan. 6, 1976, 41 F.R. 1465, provided: By virtue of the authority vested in me by Section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. Except as provided in Section 2 of this Order, the United States Civil Service Commission is

hereby designated and empowered to exercise the authority vested in the President by Section 4102(a)(2)(B) of Title 5, United States Code, to designate individuals appointed by the President for training under Chapter 41 of Title 5, United States Code.

SEC. 2. The Attorney General is hereby designated and empowered to exercise the authority vested in the President by Section 4102(a)(2)(B) to designate individuals appointed by the President as United States Attorneys and United States Marshals for training under Chapter 41 of Title 5, United States Code.

SEC. 3. Executive Order No. 11531 of May, 26, 1970, is hereby superseded.

GERALD R. FORD.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4101, 4108 of this title.

§ 4105. Non-Government facilities; use of.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3381 of this title.

§ 4107. Non-Government facilities; restrictions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3381 of this title.

§ 4108. Employee agreements; service after training.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 4108.

§ 4109. Expenses of training.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

§ 4111. Acceptance of contributions, awards, and other payments.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Office of Management and Budget note set out under this section in the main volume.

DELEGATION OF FUNCTIONS

Authority of the President to prescribe regulations with respect to reductions to be made from payments by the Government to employees for travel, subsistence, or other expenses incident to training in a non-Government facility or to attendance at a meeting under subsec. (b) of this section delegated to the Administrator of General Services, see section 1(1) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3381 of this title; title 38 section 4108.

§ 4112. Absorption of costs within funds available.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Office of Management and Budget note set out under this section in the main volume.

Subpart D.—Pay and Allowances

Chapter 51.—CLASSIFICATION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 5438 of this title; title 2 section 293; title 7 sections 1507, 1981; title 12 section 2405; title 15 sections 2051, 766, 1942, 2451; title 18 section 4001; title 20 sections 1221d, 1221e, 1417, 2106; title 22 sections 272a, 277d–3, 277d–19, 280b, 280l, 280k, 287e, 287r, 289b, 290b, 886, 928, 1044, 2825, 2873; title 25 section 640d–11; title 26 sections 9010, 9040; title 29 sections 661, 676, 1137; title 33 sections 984, 1325, 1374; title 38 sections 2003, 2014; title 40 sections 166b–1f, 174j–8, 873; title 41 section 46; title 42 sections 5042, 5149; title 43 section 1616; title 44 section 2503; title 45 sections 154, 362; title 50 section 404; title 50 App. sections 460, 2169.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in sections 1–251, 1–518, 2–408, 2–1211, 2–1726, 2–1808, 2–2224, 2–2225, 2–2415, 5–426, 5–713, 6–1203, 8–209, 9–146, 11–1726, 11–2102, 25–104, 25–104a, 29–935, 29–1093, 31–1301, 31–1402, 31–1603, 31–1622, 33–422, 35–401, 36–437, 40–603, 40–715, 40–809, 49–401 of the District of Columbia Code.

§ 5102. Definitions; application.

* * * * *

(b) Except as provided by subsections (c) and (d) of this section, this chapter applies to all civilian positions and employees in or under an agency, including positions in local boards and appeal boards within the Selective Service System and employees occupying those positions.

(c) This chapter does not apply to—

* * * * *

(5) members of the Metropolitan Police, the Fire Department of the District of Columbia, the United States Park Police, and the Executive Protective Service; and members of the police force of the National Zoological Park whose pay is fixed under section 5365 of this title;

* * * * *

(9) employees of the Government Printing Office whose pay is fixed under section 305 of title 44;

* * * * *

(As amended Pub. L. 93–176, § 1, Dec. 5, 1973, 87 Stat. 693; Pub. L. 94–183, § 2(12), (13), Dec. 31, 1975, 89 Stat. 1057.)

AMENDMENTS

1975—Subsec. (c)(5). Pub. L. 94–183, § 2(12), substituted "Executive Protective Service" for "White House Police".

Subsec. (c)(9). Pub. L. 94–183, § 2(13), substituted "305" for "40".

1973—Subsec. (b). Pub. L. 93–176 extended this chapter to include positions in local boards and appeal boards within the Selective Service System and employees occupying those positions.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–176 effective not later than the beginning of the first pay period which begins on or after the 90th day following Dec. 5, 1973, see section 4 of Pub. L. 93–176, set out as a note under section 460 of the Appendix to Title 50, War and National Defense.

CHANGE OF NAME

The Patent Office, referred to in subsec. (c)(23), was redesignated the Patent and Trademark Office by Pub. L. 93–596, § 3, Jan. 2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

REPEALS

General repealer of provisions inconsistent with Pub. L. 92–392 as not repealing or affecting subsec. (d) of this

section, see section 13 of Pub. L. 92–392, Aug. 19, 1972, 86 Stat. 575, set out as a note under section 5341 of this title.

PROHIBITION OF DECREASE IN BASIC PAY RATE OF SUBSEC. (c)(7), (8), OR (14) EMPLOYEES

Amendments by Pub. L. 92–392 not to decrease basic pay rate of subsec. (c)(7), (8), or (14) employees in service before effective date of the amendments as to such employees, see section 9(a)(2) of Pub. L. 92–392, Aug. 19, 1972, 86 Stat. 574, set out as a note under section 5343 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5101, 5103, 5331, 5341, 5342, 5348, 5349 of this title; title 10 sections 4540, 7212, 9540; title 29 section 218.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 31–1522 of the District of Columbia Code.

§ 5106. Basis for classifying positions.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 31–1522 of the District of Columbia Code.

§ 5108. Classification of positions at GS–16, 17, and 18.

* * * * *

(c) In addition to the number of positions authorized by subsection (a) of this section—

* * * * *

(9) the Railroad Retirement Board may place 4 positions in GS–16, 4 in GS–17, and 1 in GS–18, for the purpose of its administration of chapter 9 or 11 of title 45, or both;

(10)(A) the Secretary of Labor, subject to the standards and procedures prescribed by this chapter, may place an additional twenty-five positions in the Department of Labor in GS–16, 17, and 18 for the purposes of carrying out his responsibilities under the Occupational Safety and Health Act of 1970;

(B) the Occupational Safety and Health Review Commission, subject to the standards and procedures prescribed by this chapter, may place ten positions in GS–16, 17, and 18 in carrying out its functions under the Occupational Safety and Health Act of 1970;

(11) the Law Enforcement Assistance Administration may place a total of twenty-five positions in GS–16, 17, and 18;

(12) the Chief Judge of the United States Tax Court, without regard to this chapter (except section 5114), may place a total of 5 positions in GS–16, 17, and 18;

(13) The Commodity Futures Trading Commission, subject to the standards and procedures prescribed by this chapter, may place an additional twenty positions in GS–16, GS–17, and GS–18 for purposes of carrying out its functions.

(14) the Secretary of Health, Education, and Welfare, subject to the standards and procedures prescribed by this chapter, may place one additional position in the Office for the Blind and Visually Handicapped of the Rehabilitation Services Administration in GS–16, GS–17, or GS–18.

(15) the Chairman of the Equal Employment Opportunity Commission, subject to the standards and procedures prescribed by this chapter, may place an additional ten positions in the Equal Employment Opportunity Commission in GS–16, GS–17, and GS–18 for the purposes of carrying out title VII of the Civil Rights Act of 1964; and

(16) the Secretary of Health, Education, and Welfare, subject to the standards and procedures prescribed by this chapter, may place a total of eleven positions in the National Institute on Alcohol Abuse and Alcoholism in GS–16, 17, and 18.

* * * * *

(e) In addition to the number of positions authorized by subsection (a), the Commissioner of Internal Revenue is authorized, without regard to any other provision of this section, to place a total of 20 positions in the Internal Revenue Service in GS–16 and 17.

(f) In addition to the number of positions authorized by subsection (a), the Secretary of Labor is authorized, without regard to any other provision of this section, to place 1 position in the Department of Labor in grade GS–18, and a total of 20 positions in the Department of Labor in grades GS–16 and 17.

(g) In addition to the number of positions authorized by subsection (a), the Pension Benefit Guaranty Corporation is authorized, without regard to any other provision of this section, to place one position in the corporation at GS–18 and a total of 10 positions in the corporation at GS–16 and 17. (As amended Pub. L. 92–261, § 12, Mar. 24, 1972, 86 Stat. 112; Pub. L. 90–351, title I, § 506(c), as added Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 93–282, title III, § 301, May 14, 1974, 88 Stat. 137; Pub. L. 93–406, title I, § 507(b), title II, § 1051(b)(2), title IV, § 4002(c), Sept. 2, 1974, 88 Stat. 894, 951, 1005; Pub. L. 93–415, title II, § 201(g), Sept. 7, 1974, 88 Stat. 1113; Pub. L. 93–463, title IV, § 410, Oct. 23, 1974, 88 Stat. 1414; Pub. L. 93–516, title II, § 208(b), Dec. 7, 1974, 88 Stat. 1629; Pub. L. 94–183, § 2 (14), (15), Dec. 31, 1975, 89 Stat. 1057.)

REFERENCES IN TEXT

Title VII of the Civil Rights Act of 1964, referred to in subsec. (c)(15), is classified to section 2000e et seq. of Title 42, The Public Health and Welfare.

AMENDMENTS

1975—Subsec. (c)(11). Pub. L. 94–183, § 2(14), increased to twenty-five the number of positions which the Law Enforcement Assistance Administration may place in GS–16, 17, and 18. The increase required no change in text in view of the 1974 amendment by Pub. L. 93–415, which called for an identical increase.

Subsec. (c)(13)–(16). Pub. L. 94–183, § 2(15), redesignated par. (12), relating to the Commodity Futures Trading Commission, par. (12), relating to the Secretary of Health, Education, and Welfare and the Office for the Blind and Visually Handicapped of the Rehabilitation Services Administration, par. (13), relating to the Chairmain of the Equal Employment Opportunity Commission, and par. (14), relating to the Secretary of Health, Education, and Welfare and the National Institute on Alcohol Abuse and Alcoholism, as pars. (13)–(16), respectively.

1974—Subsec. (c)(11). Pub. L. 93–415 increased from twenty-two to twenty-five the number of positions which the Law Enforcement Assistance Administration may place in GS–16, 17, and 18. Amendment has been executed to subsec. (c)(11) as the probable intent of Congress nothwithstanding direction in section 210 (g) of Pub. L. 93–415 that the amendment be executed to subsec. (c)(10).

Subsec. (c)(11)–(14). Pub. L. 93–282 redesignated as par. (11) former par. (10) relating to Law Enforcement Assistance Administration; par. (12) former par. (10) relating to Chief Judge of the United States Tax Court; par. (13) former par. (10) relating to Chairman of the

Equal Employment Opportunity Commission; and added par. (14) relating to GS–16, 17, and 18 positions in the National Institute on Alcohol Abuse and Alcoholism.

Subsec. (c)(12). Pub. L. 93–516 added par. (12), relating to Secretary of Health, Education, and Welfare.

Subsec. (c)(12). Pub. L. 93–463 added par. (12), relating to the Commodity Futures Trading Commission.

Subsec. (e). Pub. L. 93–406, § 1051(b)(2), added subsec. (e).

Subsec. (f). Pub. L. 93–406, § 507(b), added subsec. (f).

Subsec. (g). Pub. L. 93–406, § 4002(c), added subsec. (g).

1973—Subsec. (c)(10). Pub. L. 93–83 substituted in par. (10) as added by Pub. L. 91–644 "twenty-two" for "twenty".

1972—Subsec. (c). Pub. L. 92–261 added par. (11).

EFFECTIVE DATE OF 1974 AMENDMENTS

Amendment by Pub. L. 93–463 effective Oct. 23, 1974, see section 418 of Pub. L. 93–463, set out as a note under section 2 of Title 7, Agriculture.

Amendment by Pub. L. 93–415 effective Sept. 7, 1974, see section 263(a) of Pub. L. 93–415, set out as a note under section 5601 of Title 42, The Public Health and Welfare.

Subsec. (g) of this section effective on Sept. 2, 1974, with exceptions specified in section 1381(b), (c) of Title 29, Labor, see section 1381(a) of Title 29.

Amendment by Pub. L. 93–406 effective on the 90th day after Sept. 2, 1974, see section 1051(d) of Pub. L. 93–406, set out as a note under section 7802 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1973 AMENDMENT

Offices and salaries modified under amendment of this section by Pub. L. 93–83 prospectively only, effective on and after Aug. 6, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of Title 42, The Public Health and Welfare.

PREFERENCE TO BLIND IN SELECTION OF PERSONNEL

Preference to be given to blind individuals in selection of additional personnel under subsec. (c)(12) of this section, see section 208(c) of Pub. L. 93–516, set out as a note under section 702 of Title 29, Labor.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3324, 5109, 5114 of this title; title 2 section 166; title 10 sections 4540, 7212, 9540; title 20 sections 1221e, 1221f; title 22 sections 2193, 2385; title 29 sections 661, 1137; title 42 section 3774.

§ 5109. Positions classified by statute.

* * * * *

(c) The position held by the employee appointed under section 7802(b) of the Internal Revenue Code of 1954 is classified at GS–18, and is in addition to the number of positions authorized by section 5108 (a) of this title. (As amended Pub. L. 93–406, title II, § 1051(b)(1), Sept. 2, 1974, 88 Stat. 951.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93–406 added subsec. (c). A prior subsec. (c) was repealed by Pub. L. 91–34.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 effective on the 90th day after Sept. 2, 1974, see section 1051(d) of Pub. L. 93–406, set out as a note under section 7802 of Title 26, Internal Revenue Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5114, 5115 of this title; title 10 sections 4540, 7212, 9540.

Chapter 53.—PAY RATES AND SYSTEMS

SUBCHAPTER II.—EXECUTIVE SCHEDULE PAY RATES

Sec.

5318. Adjustments in rates of pay.
5341. Policy.

SUBCHAPTER IV.—PREVAILING RATE SYSTEMS

Sec.

5342. Definitions; application.
5343. Prevailing rate determinations; wage schedules; night differentials.
5344. Effective date of wage increase; retroactive pay.
5345. Retained rate of pay on reduction in grade or reassignment.
5346. Job grading system.
5347. Federal Prevailing Rate Advisory Committee.
5348. Crews of vessels.
5349. Prevailing rate employees; legislative, judicial, Bureau of Engraving and Printing, and government of the District of Columbia.

AMENDMENTS

1975—Pub. L. 94–82, title II, § 202(b)(6), Aug. 9, 1975, 89 Stat. 420, added item 5318.

1972—Pub. L. 92–392, § 1(b), Aug. 19, 1972, 86 Stat. 572, substituted items 5341, 5343, 5344, and 5345 relating to "Policy", "Prevailing rate determinations; wage schedules; night differentials", "Effective date of wage increase; retroactive pay" and "Retained rate of pay on reduction in grade or reassignment", for such former items relating to "Trades and crafts", "Effective date of pay increase", "Retroactive pay" and "Position classification appeals", added items 5342, 5346, 5347, and 5349, and renumbered former item 5342 as 5348.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 15 section 700; title 18 section 3153; title 42 section 5872.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 23–1306 of the District of Columbia Code.

SUBCHAPTER I.—PAY COMPARABILITY SYSTEM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 29 sections 661, 676.

§ 5303. Higher minimum rates; Presidential authority.

* * * * *

(c) An increase in rate of basic pay established under this section is not an equivalent increase in pay within the meaning of section 5335(a) of this title.

* * * * *

(As amended Pub. L. 94–183, § 2(16), Dec. 31, 1975, 89 Stat. 1057.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 94–183 deleted "and section 3552 of title 39" which followed "of section 5335(a) of this title".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3326 of this title.

§ 5304. Presidential policies and regulations.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Office of Management and Budget note set out under this section in the main volume.

EXECUTIVE ORDER NO. 11073

Ex. Ord. No. 11073, Jan. 7, 1963, 28 F.R. 203, as amended by Ex. Ord. No. 11173, Aug. 20, 1964, 29 F.R. 11999, set out as a note under this section, which provided for federal salary administration, was superseded by Ex. Ord. No. 11721, May 23, 1973, 38 F.R. 13717, set out as a note under this section.

EX. ORD. NO. 11721. FEDERAL PAY ADMINISTRATION

Ex. Ord. No. 11721, May 23, 1973, 38 F.R. 13717, provided:

By virtue of the authority vested in me by sections 5303, 5304, and 5305 of title 5, United States Code, and as President of the United States, it is hereby ordered as follows:

PART I—GENERAL POLICY

Section 101. Heads of agencies are directed:

(a) To make full use of the authorities in chapter 53 of title 5, United States Code [this chapter], and the statutory pay systems to which section 5301 of that chapter refers to secure and maintain the high quality of Federal personnel necessary for an effective and efficient Government service;

(b) To use these authorities to (1) motivate employees to perform continuously at their full capacity, and (2) provide fair treatment in pay matters of all employees subject to the statutory pay systems; and

(c) To take appropriate measures to ensure that the Government receives full value for its expenditures for salaries and that every employee is paid no more than is warranted by the nature of his assignments and the degree of competence with which he performs them.

Sec. 102. As used in this order, the term "agency" has the meaning given to it by section 5102(a) of title 5, United States Code.

PART II—ANNUAL PAY REVIEW

Section 201. The Director, Office of Management and Budget, and the Chairman, United States Civil Service Commission, are hereby designated as the President's agent under section 5305 of title 5, United States Code.

Sec. 202. The head of each agency employing personnel under the statutory pay systems (as defined in section 5301(c) of title 5, United States Code) shall provide such information and technical assistance with respect to the statutory pay systems applicable to his agency as may be requested by the President's agent in carrying out the provisions of section 5305 of title 5, United States Code.

Sec. 203. The following agencies are designated under section 5305(q) of title 5, United States Code, to prescribe the rules necessary to convert the rates of basic pay or salaries of officers and employees to the new pay rates as adjusted for each statutory pay system under section 5305 of title 5, United States Code:

(i) General Schedule—the Civil Service Commission;

(ii) Foreign Service schedules—the Department of State;

(iii) Schedules for the Department of Medicine and Surgery of the Veterans Administration—the Veterans Administration.

PART III—SPECIAL RATES FOR RECRUITMENT AND RETENTION

Section 301(a). The Civil Service Commission is hereby designated to exercise—

(1) the authority of the President under section 5303 (a) and (b) of title 5, United States Code, to establish or revise higher minimum rates of pay, and

(2) the authority of the President under section 5303 (d) of title 5, United States Code, to prescribe conversion rules for adjusting an employee's pay.

(b) Before exercising these functions for positions compensated under the Foreign Service schedules or under the schedules for physicians, dentists, and nurses in the Department of Medicine and Surgery of the Veterans Administration, the Civil Service Commission shall consult with the head of the agency concerned.

Sec. 302(a). Before establishing higher rates of pay under section 5303(a) of title 5, United States Code, the Civil Service Commission shall consider whether—

(1) an adequate recruiting program has been implemented and that attention has been given to the improvement of working conditions and to other relevant factors; and

(2) adequate recruitment or retention cannot be achieved by alternate means such as job redesign or skills improvement training programs.

(b) The Civil Service Commission may not establish higher rates for all positions in a statutory grade or level in a given area unless the Commission determines that adequate recruitment and retention cannot be achieved by establishment of higher rates for certain occupations or groups of occupations.

Sec. 303. The Civil Service Commission shall review, at least annually, higher rates of pay established under section 5303(a) of title 5, United States Code, and shall continue, abolish, or revise the higher rates in consideration of the facts and pertinent criteria under the law and this order.

Sec. 304. An employee's basic pay rate may not be reduced solely because of a revision to, or cancellation of, the higher rates established under section 5303(a) of title 5, United States Code.

PART IV—GENERAL SCHEDULE SYSTEM

Section 401(a). Heads of agencies shall ensure that agency managers and supervisors at all levels use the position classification plan of the General Schedule system as a tool for effective and efficient human resources utilization.

(b) The Civil Service Commission shall revoke the position classification authority of an agency under the General Schedule whenever the Commission finds, in connection with its regular evaluation, or otherwise, that an agency has failed to classify its positions in accordance with or consistently with applicable standards.

Sec. 402. The Civil Service Commission shall issue such regulations and standards as may be necessary to ensure that only those employees whose work is of an acceptable level of competence receive periodic step-increases under the provisions of section 5335 of title 5, United States Code.

Sec. 403(a). The Civil Service Commission shall require each agency employing personnel under the General Schedule to establish a plan for granting additional step-increases in recognition of high quality performance under section 5336 of title 5, United States Code, and shall require that the plans (1) be as simple as practicable, (2) provide for delegation of authority to an appropriate management level, (3) seek to ensure fairness to all employees, and (4) provide for informing employees, at least annually, of the number of additional step-increases granted in their agencies.

(b) The Civil Service Commission shall (1) establish such regulations and standards as it deems appropriate for agency plans, (2) aid and advise agencies in the formulation and administration of the plans, and (3) evaluate the plans and their operation to ensure that step-increases are granted in a manner that is fair to employees and provides motivation for high quality performance.

Sec. 404. The Civil Service Commission, in prescribing regulations for higher rates of pay under section 5333(b) of title 5, United States Code, for employees having responsibility for supervision of prevailing-rate employees, shall give effect to the following:

(a) An irregular prevailing rate (such as the saved rate of a prevailing-rate employee not related to his current position) shall not serve to advance the pay rate of a supervisor under the General Schedule.

(b) The relative rate-range of a General Schedule supervisor and a prevailing-rate employee supervised by him shall be considered as well as the specific rate either is receiving at a given time.

(c) Due consideration shall be given to equities among General Schedule supervisors as well as those between a General Schedule supervisor and a prevailing-rate employed supervised by him.

PART V—PRIOR ORDER SUPERSEDED

Section 501. Executive Order 11073 of January 2, 1963, and Executive Order 11173 of August 20, 1964, are hereby superseded.

RICHARD NIXON.

§ 5305. Annual pay reports and adjustments.

(a) In order to carry out the policy stated in section 5301 of this title, the President shall—

* * * * *

(3) transmit to Congress a report of the pay adjustment, together with a copy of the report

submitted to him by his agent and the findings and recommendations of the Advisory Committee on Federal Pay reported to him under section 5306(b)(3) of this title. The report transmitted to the Congress under this subsection shall specify the overall percentage of the adjustment in the rates of pay under the General Schedule and of the adjustment in the rates of pay under the other statutory pay systems.

* * * * *

(c)(1) If, because of national emergency or economic conditions affecting the general welfare, the President should, in any year, consider it inappropriate to make the pay adjustment required by subsection (a) of this section, he shall prepare and transmit to Congress before September 1 of that year such alternative plan with respect to a pay adjustment as he considers appropriate, together with the reasons therefor, in lieu of the pay adjustments required by subsection (a) of this section. The report transmitted to the Congress under this subsection shall specify the overall percentage of the adjustment in the rates of pay under the General Schedule and of the adjustment in the rates of pay under the other statutory pay systems.

* * * * *

(As amended Pub. L. 94–82, title II, § 202(c), Aug. 9, 1975, 89 Stat. 420.)

AMENDMENTS

1975—Subsec. (a)(3). Pub. L. 94–82, § 202(c)(1), added provision relating to specification in the report to the Congress of the overall percentage of the adjustment in the rates of pay under the General Schedule and under other statutory pay systems.

Subsec. (c)(1). Pub. L. 94–82, § 202(c)(2), added provision relating to specification in the report to the Congress of the overall percentage of the adjustment in the rates of pay under the General Schedule and under other statutory pay systems.

EQUITABLE WAGE ADJUSTMENTS FOR CERTAIN PREVAILING RATE EMPLOYEES

Sections 1 and 2 of Pub. L. 92–298, May 17, 1972, 86 Stat. 146, provided:

"That this Act [enacting provisions set out as notes under this section and amending notes set out under section 60a of Title 2, The Congress] may be cited as the 'Prevailing Rate Equalization Adjustment Act of 1972'.

"Sec. 2. (a) Notwithstanding any other provision of law or any provision of an Executive order or regulation, a wage schedule adjustment for employees of the Government of the United States whose pay is fixed and adjusted from time to time in accordance with prevailing rates—

"(1) if based on a wage survey ordered to be made on or after August 15, 1971, but not placed into effect before November 14, 1971, by reason of the provisions of Executive Order 11615 or Executive Order 11627 [formerly set out as notes under section 1904 of Title 12]; or

"(2) if based on a wage survey which had been scheduled to be made during the period beginning on September 1, 1971, and ending on January 12, 1972, and which was ordered to be made on or after January 23, 1972;

shall be effective on the date on which such wage schedule adjustment would have been effective under section 5343 of title 5, United States (Code), had the fiscal year 1972 schedule for wage surveys for such employees been followed.

"(b) Retroactive pay made under the provisions of this section will be made in accordance with section 5344 of title 5, United States Code."

ADJUSTMENTS IN RATES OF PAY OF FEDERAL STATUTORY PAY SYSTEMS; EFFECTIVE DATE

Pub. L. 92–210, § 3, Dec. 22, 1971, 85 Stat. 753, provided that:

"Notwithstanding any provision of section 3(c) of the Federal Pay Comparability Act of 1970 (Public Law 91–656), or of section 5305 of title 5, United States Code, as added by section 3(a) of Public Law 91–656, and the provisions of the alternative plan submitted by the President to the Congress pursuant thereto on August 31, 1971, such comparability adjustments in the rates of pay of each Federal statutory pay system as may be required under such sections 5305 and 3(c), based on the 1971 Bureau of Labor Statistics survey—

"(1) shall not be greater than the guidelines established for the wage and salary adjustments for the private sector that may be authorized under authority of any statute of the United States, including the Economic Stabilization Act of 1970 (Public Law 91–379; 84 Stat. 799), as amended [set out as a note under section 1904 of Title 12], and that may be in effect on December 31, 1971; and

"(2) shall be placed into effect on the first day of the first pay period that begins on or after January 1, 1972. Nothing in this section shall be construed to provide any adjustments in rates of pay of any Federal statutory pay system which are greater than the adjustments based on the 1971 Bureau of Labor Statistics survey."

EX. ORD. NO. 11639. PAY ADJUSTMENTS FOR FEDERAL PREVAILING RATE SYSTEMS

Ex. Ord. No. 11639, Jan. 11, 1972, 37 F.R. 521, provided: By virtue of the authority vested in me by the Constitution and statutes of the United States, including the Economic Stabilization Act of 1970 (Public Law 91–379, 84 Stat. 799), as amended by the Economic Stabilization Act Amendments of 1971 (Public Law 92–210, 85 Stat. 743) [set out as a note under section 1904 of Title 12, Banks and Banking], it is hereby ordered as follows:

SECTION 1. The head of each executive agency or military department authorized to fix by administrative action the rate of basic pay for a position or employee under subchapter IV of chapter 53 of title 5 of the United States Code [this subchapter], shall fix any such rate in accordance with instructions issued by the United States Civil Service Commission (hereinafter referred to as the Commission) under the authority of this order.

SEC. 2. (a) The Commission is hereby authorized and directed to issue to the heads of executive agencies and military departments instructions on the fixing of rates of basic pay for positions and employees covered by section 1 of this order.

(b) In issuing instructions under this order, the Commission shall maintain consistency in each pay schedule adjustment with the fiscal and economic policies of the United States, including the policies and pay increase guidelines issued by the Pay Board established under Executive Order No. 11627 of October 15, 1971. No pay schedule adjustment shall exceed such guidelines, except where (i) a tandem relationship exists between a Federal pay schedule for a specialized employee unit and pay increases granted in a specialized activity in the private sector, (ii) the Pay Board has permitted a pay increase for the specialized activity in the private sector which is in excess of the guidelines, and (iii) it is determined that a comparable increase is essential to the continued operation of the Government service concerned.

SEC. 3. The instructions issued by the Commission under this order may (i) prescribe definitions of the terms used herein, (ii) redelegate to the head of an executive agency or military department any of the Commission's authority under this order, and (iii) contain such other provisions as the Commission determines to be necessary and appropriate to carry out the purposes of this order.

SEC. 4.(a) The Commission may, in administering this order, utilize such services of other executive agencies and military departments as may be available and appropriate.

(b) On request of the Commission, an executive agency or military department is authorized and directed, consistent with law, to furnish the Commission with infor-

mation which the Commission may require in carrying out its responsibilities under this order.

RICHARD NIXON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5301, 5307, 5318 of this title; title 2 sections 31, 60a–1, 60a–2; title 3 section 104; title 28 section 461.

§ 5307. Pay fixed by administrative action.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 section 174j–8.

§ 5308. Pay limitation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 4107.

SUBCHAPTER II.—EXECUTIVE SCHEDULE PAY RATES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5364 of this title; title 31 section 42a; title 40 App. section 101.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in section 4–823 of the District of Columbia Code.

§ 5312. Positions at level I.

Level I of the Executive Schedule applies to the following positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * *

(13) Special Representative for Trade Negotiations.

(As amended Pub. L. 93–618, title I, § 141(b)(3)(A), Jan. 3, 1975, 88 Stat. 1999; Pub. L. 94–82, title II, § 202(b)(1), Aug. 9, 1975, 89 Stat. 419.)

1975 INCREASES IN SALARIES

Salaries of positions at Level I increased to $63,000 per annum, effective on the first day of the first pay period beginning on or after Oct. 1, 1975, see Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091, set out as a note under section 5332 of this title.

AMENDMENTS

1975—Pub. L. 94–82 substituted provisions applying level I of the Executive Schedule to positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title for provisions applying such level I to positions for which the annual rate of basic pay is $35,000.

Par. (13). Pub. L. 93–618 added par. (13).

SHORT TITLE OF 1975 AMENDMENT

Section 201 of Pub. L. 94–82 provided that: "This title [enacting section 5318 of this title and section 461 of Title 28, Judiciary and Judicial Procedure, amending this section and sections 5305, 5313, 5314, 5315 and 5316 of this title, sections 31, 60a note, 136a, 136a–1 and 356 of Title 2. The Congress, section 104 of Title 3, The President, section 68 of Title 11, Bankruptcy, sections 5, 44, 135, 173, 213, 252 and 792 of Title 28, sections 42a and 51a of Title 31, Money and Finance, sections 162a and 166b of Title 40, Public Buildings, Property, and Works, and section 303 of Title 44, Public Printing and Documents, and enacting provisions set out as a note under section 356 of Title 2] may be cited as the 'Executive Salary Cost-of-Living Adjustment Act'."

COMPENSATION AND EMOLUMENTS OF ATTORNEY GENERAL; FIXING AT LEVEL IN EFFECT ON JANUARY 1, 1969

Provisions of Pub. L. 93–178, § 1, Dec. 10, 1973, 87 Stat. 697, which fixed the compensation and other emoluments attached to the Office of Attorney General at level in effect on Jan. 1, 1969, notwithstanding any other provision of law enacted or becoming effective during period from noon, Jan. 3, 1969, through noon, Jan. 2, 1975, were repealed by Pub. L. 94–2, Feb. 18, 1975, 89 Stat. 4, effective as of Feb. 4, 1975. Present provisions are now set out as a note under section 358 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1723; title 39 section 1003; title 45 sections 543, 712.

§ 5313. Positions at level II.

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) Deputy Secretaries of Defense (2).

(2) Deputy Secretary of State.

* * * * *

(6) Deputy Secretary of the Treasury.

(7) Deputy Secretary of Transportation.

(8) Chairman, Nuclear Regulatory Commission.

* * * * *

(21) Director of the Special Action Office for Drug Abuse Prevention.

(22) Administrator of Energy Research and Development Administration.

(As amended Pub. L. 92–255, title II, § 212(a), Mar. 21, 1972, 86 Stat. 69; Pub. L. 92–302, § 2(a), May 18, 1972, 86 Stat. 149; Pub. L. 92–352, title I, § 104(1), July 13, 1972, 86 Stat. 490; Pub. L. 92–596, § 6, Oct. 27, 1972, 86 Stat. 1318; Pub. L. 93–438, title III, § 310(1), Oct. 11, 1974, 88 Stat. 1252; Pub. L. 93–496, § 16(c), Oct. 28, 1974, 88 Stat. 1533; Pub. L. 94–82, title II, § 202(b)(2), Aug. 9, 1975, 89 Stat. 419.)

1975 INCREASES IN SALARIES

Salaries of positions at Level II increased to $44,600 per annum, effective on the first day of the first pay period beginning on or after Oct. 1, 1975, see Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091, set out as a note under section 5332 of this title.

AMENDMENTS

1975—Pub. L. 94–82 substituted provisions applying level II of the Executive Schedule to positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title, for provisions applying such level II to positions for which the annual rate of basic pay is $30,000.

1974—Par. (7). Pub. L. 93–496 substituted "Deputy Secretary of Transportation" for "Under Secretary for Transportation".

Par. (8). Pub. L. 93–438 substituted "Chairman, Nuclear Regulatory Commission" for "Chairman, Atomic Energy Commission".

Par. (22). Pub. L. 93–438 added par. (22).

1972—Par. (1). Pub. L. 92–596 substituted "Deputy Secretaries of Defense (2)" for "Deputy Secretary of Defense".

Par. (2). Pub. L. 92–352 substituted "Deputy Secretary of State" for "Under Secretary of State".

Par. (6). Pub. L. 92–302 added par. (6), "Deputy Secretary of the Treasury." A prior par. (6), "Administrator of the Housing and Home Finance Agency," was repealed by Pub. L. 90–83, § 1(13), Sept. 11, 1967, 81 Stat. 198.

Par. (21). Pub. L. 92–255 added par. (21).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of Pub. L. 93–438 effective 120 days after Oct. 11, 1974, or on such earlier date as the President may prescribe and publish in the Federal Register, except that officers provided for in sections 5811–5820 of Title 42, The Public Health and Welfare, may be nominated and appointed at any time after Oct. 11, 1974, see section 312(a) of Pub. L. 93–438, set out as a note under section 5801 of Title 42.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–302 effective May 18, 1972, see section 3 of Pub. L. 92–302, set out as a note under section 1004 of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Office of Management and Budget note set out under this section in the main volume.

PAY INCREASE; EFFECTIVE DATE

Persons occupying a position under the Executive Schedule on May 18, 1972, and later appointed to a position created or authorized by Pub. L. 92–302, not eligible to an increase on basic pay until Jan. 21, 1973, see section 3(c) of Pub. L. 92–302, set out as a note under section 1004 of Title 31, Money and Finance.

OFFICE OF SCIENCE AND TECHNOLOGY

The office of Director of the Office of Science and Technology was abolished and all functions vested by law in such office were transferred to the Director of the National Science Foundation by sections 2 and 3(a)(5) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix of this title.

SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION, DIRECTOR OF OFFICE; REPEAL OF AUTHORITY FOR OFFICE

Par. (21) of this section establishing level II position for Director of the Special Action Office for Drug Abuse Prevention, repealed effective June 30, 1975, see section 104 of Pub. L. 92–255, classified to section 1104 of Title 21, Food and Drugs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8704 of this title; title 15 section 763; title 22 sections 866, 2847; title 23 section 303; title 42 sections 210, 1864, 5871, 5872.

§ 5314. Positions at level III.

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * *

(9) Under Secretary of State for Political Affairs and Under Secretary of State for Economic Affairs and an Under Secretary of State for Coordinating Security Assistance Programs.

(10) Under Secretary of the Treasury (or Counselor).

* * * * *

(38) Repealed. Pub. L. 94–123, § 2(c)(1), Oct. 22, 1975, 89 Stat. 670.

* * * * *

(42) Members, Nuclear Regulatory Commission.

* * * * *

(53) President, Overseas Private Investment Corporation.

(54) Chairman, Postal Rate Commission.

(55) Administrator of Law Enforcement Assistance.

(56) Chairman, Occupational Safety and Health Review Commission.

(57) Governor of the Farm Credit Administration.

(58) Chairman, Equal Employment Opportunity Commission.

(59) Chairman, Consumer Product Safety Commission.

(60) Deputy Administrator, Energy Research and Development Administration.

(61) Chairman, Commodity Futures Trading Commission.

(62) Deputy Special Representatives for Trade Negotiations (2).

(63) Chairman, United States International Trade Commission.

(As amended Pub. L. 92–181, title V, § 5.27(a), Dec. 10, 1971, 85 Stat. 625; Pub. L. 92–226, pt. IV, § 403, Feb. 7, 1972, 86 Stat. 34; Pub. L. 92–261, § 9(a), Mar. 24, 1972, 86 Stat. 110; Pub. L. 92–302, § 2(b), May 18, 1972, 86 Stat. 149; Pub. L. 92–352, title I, § 104(2), July 13, 1972, 86 Stat. 490; Pub. L. 92–573, § 4(h)(1), Oct. 27, 1972, 86 Stat. 1211; Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 93–438, title III, § 310(2), Oct. 11, 1974, 88 Stat. 1252; Pub. L. 93–463, title I, § 102(a), Oct. 23, 1974, 88 Stat. 1391; Pub. L. 93–618, title I, §§ 141(b)(3)(B), 172(c)(1), Jan. 3, 1975, 88 Stat. 1999, 2010; Pub. L. 94–82, title II, § 202(b)(3), Aug. 9, 1975, 89 Stat. 420; Pub. L. 94–123, § 2(c)(1), Oct. 22, 1975, 89 Stat. 670; Pub. L. 94–183, § 2(17), Dec. 31, 1975, 89 Stat. 1057.)

1975 INCREASES IN SALARIES

Salaries of positions at Level III increased to $42,000 per annum, effective on the first day of the first pay period beginning on or after Oct. 1, 1975, see Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091, set out as a note under section 5332 of this title.

AMENDMENTS

1975—Pub. L. 94–82 substituted provisions applying level III of the Executive Schedule to positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title, for provisions applying such level III to positions for which the annual rate of basic pay is $29,500.

Par. (38). Pub. L. 94–123 repealed par. (38) which related to the Chief Medical Director in the Department of Medicine and Surgery, Veterans' Administration.

Par. (54). Pub. L. 94–183 redesignated par. (55), Chairman, Postal Rate Commission, as par. (54).

Pars. (56), (57). Pub. L. 94–183 redesignated par. (57), Chairman, Occupational Safety and Health Review Commission, and par. (58), Governor of the Farm Credit Administration, as pars. (56) and (57), respectively.

Par. (60). Pub. L. 93–618, §141(b)(3)(B), added par. (60), Deputy Special Representative for Trade Negotiations. For renumbering by Pub. L. 94–183, see item relating to par. (62) hereunder.

Par. (61). Pub. L. 94–183 redesignated par. (60), Chairman, Commodity Futures Trading Commission, as par. (61).

Pub. L. 93–618, § 172(c)(1), added par. (61). For renumbering by Pub. L. 94–183, see item relating to par. (63) hereunder.

Pars. (62), (63). Pub. L. 94–183 redesignated par. (60), Deputy Special Representatives for Trade Negotiations,

and par. (61), Chairman, United States International Trade Commission, as pars. (62) and (63), respectively.

1974—Par. (42). Pub. L. 93–438 substituted "Members, Nuclear Regulatory Commission" for "Members, Atomic Energy Commission."

Par. (60). Pub. L. 93–463 added par. (60), relating to Chairman, Commodity Futures Trading Commission.

Par. (60). Pub. L. 93–438 added par. (60), relating to Deputy Administrator, Energy Research and Development Administration.

1973—Par. (55). Pub. L. 93–83 reenacted par. (55), Administrator of Law Enforcement Assistance.

1972—Par. (9). Pub. L. 92–352 substituted "and" for "or", following "Political Affairs."

Par. (9). Pub. L. 92–226 included position of an Under Secretary of State for Coordinating Security Assistance Programs.

Par. (10). Pub. L. 92–302 substituted "Under Secretary of the Treasury (or Counselor)" for "Under Secretary of the Treasury".

Par. (58). Pub. L. 92–261 added par. (58), relating to Chairman, Equal Employment Opportunity Commission.

Par. (59). Pub. L. 92–573 added par. (59).

1971—Par. (58). Pub. L. 92–181 added par. (58) relating to the Governor of the Farm Credit Administration.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–123 effective on Oct. 12, 1975, see section 6(a)(1) of Pub. L. 94–123, set out as a note under section 4118 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1974 AMENDMENTS

Amendment by Pub. L. 93–463 effective Oct. 23, 1974, see section 418 of Pub. L. 93–463, set out as a note under section 2 of Title 7, Agriculture.

Amendment by Pub L. 93–438 effective 120 days after Oct. 11, 1974, or on such earlier date as the President may prescribe and publish in the Federal Register, except that officers provided for in sections 5811–5820 of Title 42, The Public Health and Welfare, may be nominated and appointed at any time after Oct. 11, 1974, see section 312(a) of Pub. L. 93–438, set out as a note under section 5801 of Title 42.

EFFECTIVE DATE OF 1973 AMENDMENT

Offices and salaries modified under amendment of this section by Pub. L. 93–83 prospectively only, effective on and after Aug. 6, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–302 effective May 18, 1972, see section 3 of Pub. L. 92–302, set out as a note under section 1004 of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Office of Management and Budget note set out under this section in the main volume.

PAY INCREASE; EFFECTIVE DATE

Persons occupying a position under the Executive Schedule on May 18, 1972, and later appointed to a position created or authorized by Pub. L. 92–302, not eligible to an increase in basic pay until Jan. 21, 1973, see section 3(c) of Pub. L. 92–302, set out as a note under section 1004 of Title 31, Money and Finance.

OFFICE OF EMERGENCY PREPAREDNESS

The Office of Emergency Preparedness, including the offices of Director, Deputy Director, Assistant Directors, and Regional Directors, was abolished and all functions vested by law in the Office of Emergency Preparedness or the Director of the Office of Emergency Preparedness were transferred to the President of the United States by sections 1 and 3(a)(1) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 60a–1, 282b, 474, 601; title 15 sections 2051, 763; title 22 section 866; title 38 section 4107; title 42 sections 1864a, 5041, 5871, 5872; title 50 App. section 2169.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 1–161, 9–146 of the District of Columbia Code.

§ 5315. Positions at level IV.

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * *

(10) Deputy Under Secretary of State.

(11) Assistant Secretaries of Agriculture (4).

* * * * *

(13) Assistant Secretaries of Defense (9).

* * * * *

(18) Assistant Secretaries of the Interior (6).

* * * * *

(23) Assistant Secretaries of the Treasury (5).

(24) Members, United States International Trade Commission.

* * * * *

(31) Repealed. Pub. L. 94–123, § 2(c)(2), Oct. 22, 1975, 89 Stat. 670.

* * * * *

(50) Repealed, Pub. L. 93–438, title III, § 310(3), Oct. 11, 1974, 88 Stat. 1253.

(51) Repealed. Pub. L. 92–181, title V, § 5.27(a), Dec. 10, 1971, 85 Stat. 625.

* * * * *

(72) Members, Equal Employment Opportunity Commission (4).

* * * * *

(87) Assistant Secretaries of Housing and Urban Development (8).

* * * * *

(90) Deputy Administrator for Policy Development of the Law Enforcement Assistance Administration.

(91) Federal Insurance Administrator, Department of Housing and Urban Development.

(92) Executive Vice President, Overseas Private Investment Corporation.

(93) Administrator of the National Credit Union Administration.

(94) Members, Postal Rate Commission (4).

(95) Members, Occupational Safety and Health Review Commission.

(96) Deputy Director of the Special Action Office for Drug Abuse Prevention.

(97) Deputy Under Secretaries of the Treasury (or Assistant Secretaries of the Treasury) (2).

(98) Members, Consumer Product Safety Commission (4).

(99) Commissioner of Social Security, Department of Health, Education, and Welfare.

(100) Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State.

(101) Administrator for Federal Procurement Policy.

(102) Assistant Administrators, Energy Research and Development Administration (6).

(103) Members, Commodity Futures Trading Commission.

(104) Director of Nuclear Reactor Regulation, Nuclear Regulatory Commission.

(105) Director of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission.

(106) Director of Nuclear Regulatory Research, Nuclear Regulatory Commission.

(107) Executive Director for Operations, Nuclear Regulatory Commission.

(As amended Pub. L. 92–22, § 2, June 1, 1971, 85 Stat. 76; Pub. L. 92–181, title V, § 5.27(a), Dec. 10, 1971, 85 Stat. 625; Pub. L. 92–215, § 2, Dec. 22, 1971, 85 Stat. 777; Pub. L. 92–255, title II, § 212(b), Mar. 21, 1972, 86 Stat. 69; Pub. L. 92–261, § 9(b), Mar. 24, 1972, 86 Stat. 110; Pub. L. 92–302, § 2(c), May 18, 1972, 86 Stat. 149; Pub. L. 92–352, title I, § 104(3), July 13, 1972, 86 Stat. 490; Pub. L. 92–419, title VI, § 604(b), Aug. 30, 1972, 86 Stat. 676; Pub. L. 92–573, § 4(h)(2), Oct. 27, 1972, 86 Stat. 1211; Pub. L. 92–603, title IV, § 404(b), Oct. 30, 1972, 86 Stat. 1488; Pub. L. 90–351, title I, § 506(a), as added Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 93–126, § 9(b), as added Pub. L. 93–312, § 9, June 8, 1974, 88 Stat. 238; Pub. L. 93–383, title VIII, § 818(c), Aug. 22, 1974, 88 Stat. 740; Pub. L. 93–400, § 13, Aug. 30, 1974, 88 Stat. 799; Pub. L. 93–438, title III, § 310(3), Oct. 11, 1974, 88 Stat. 1253; Pub. L. 93–463, title I, § 102(b), Oct. 23, 1974, 88 Stat. 1391; Pub. L. 93–618, title I, § 172(c)(2), Jan. 3, 1975, 88 Stat. 2010; Pub. L. 94–82, title II, § 202(b)(4), Aug. 9, 1975, 89 Stat. 420; Pub. L. 94–123, § 2(c)(2), Oct. 22, 1975, 89 Stat. 670; Pub. L. 94–183, § 2(18), Dec. 31, 1975, 89 Stat. 1057.)

1975 INCREASES IN SALARIES

Salaries of positions at Level IV increased to $39,900 per annum, effective on the first day of the first pay period beginning on or after Oct. 1, 1975, see Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091, set out as a note under section 5332 of this title.

AMENDMENTS

1975—Pub. L. 94–82 substituted provisions applying level IV of the Executive Schedule to positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title, for provisions applying such level IV to positions for which the annual rate of basic pay is $28,750.

Par. (24). Pub. L. 93–618 substituted "Members, United States International Trade Commission" for "Chairman of the United States Tariff Commisison".

Par. (31). Pub. L. 94–123 repealed par. (31) which related to the Deputy Chief Medical Director in the Department of Medicine and Surgery, Veterans' Administration.

Pars. (93)–(107). Pub. L. 94–183 redesignated par. (92) Administrator of the National Credit Union Administration, par. (93) Members, Postal Rate Commission, par. (94) Members, Occupational Safety and Health Review Commission, par. (95) Deputy Director of the Special Action Office for Drug Abuse Prevention, par. (96) Deputy Under Secretaries of the Treasury (or Assistant Secretaries of the Treasury), par. (97) Members, Consumer Product Safety Commission, par. (97) Commissioner of Social Security, Department of Health, Education, and Welfare, par. (99) Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State, par. (100) Administrator for Federal Procurement Policy, par. (100) Assistant Administrators, Energy Research and Development Administration, par. (100) Members, Commodity Futures Trading Commission, par. (101) Director of Nuclear Reactor Regulation, Nuclear Regulatory Commission, par. (102) Director of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, par. (103) Director of Nuclear Regulatory Research, Nuclear Regulatory Commission, par. (104) Executive Director for Operations, Nuclear Regulatory Commission, as pars. (93)–(107), respectively.

1974—Par. (50). Pub. L. 93–438 struck out par. (50) "General Manager of the Atomic Energy Commission". See pars. (100)–(104) of this section.

Par. (87). Pub. L. 93–383 increased number of Assistant Secretaries from 6 to 8.

Par. (99). Pub. L. 93–126, § 9(b), as added by Pub. L. 93–312, added par. (99).

Par. (100). Pub. L. 93–463 added par. (100), relating to Members, Commodity Futures Trading Commission.

Par. (100) Pub. L. 93–438 added par. (100), relating to Assistant Administrators, Energy Research and Development Administration.

Par. (100). Pub. L. 93–400 added par. (100), relating to Administrator for Federal Procurement Policy.

Pars. (101)–(104). Pub. L. 93–438 added pars. (101)–(104).

1973—Par. (90). Pub. L. 93–83 substituted "Deputy Administrator for Policy Development of the Law Enforcement Assistance Administration" for "Associate Administrator of Law Enforcement Assistance (2)".

1972—Par. (10). Pub. L. 92–352 substituted "Secretary of State" for "Secretaries of State (2)".

Par. (11). Pub. L. 92–419 increased from three to four the number of authorized Assistant Secretaries of Agriculture.

Par. (23). Pub. L. 92–302, § 2(c)(1), increased the number of Assistant Secretaries of the Treasury from 4 to 5.

Par. (72). Pub. L. 92–261 substituted "Members, Equal Employment Opportunity Commission (4)" for "Chairman, Equal Employment Opportunity Commission".

Par. (95). Pub. L. 92–255 added par. (95).

Par. (96). Pub. L. 92–302, § 2(c)(2), added par. (96).

Par. (97). Pub. L. 92–603 added par. (97), relating to Commissioner of Social Security, Department of Health, Education, and Welfare.

Par. (97). Pub. L. 92–573 added par. (97) relating to Members, Consumer Product Safety Commission (4).

1971—Par. (13). Pub. L. 92–215 increased the number of Assistant Secretaries of Defense from 8 to 9.

Par. (18). Pub. L. 92–22 increased from five to six the number of authorized Assistant Secretaries of the Interior.

Par. (51). Pub. L. 92–181 struck out provision for the Governor of the Farm Credit Administration.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–123 effective on Oct. 12, 1975, see section 6(a)(1) of Pub. L. 94–123, set out as a note under section 4118 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1974 AMENDMENTS

Amendment by Pub. L. 93–463 effective Oct. 23, 1974, see section 418 of Pub. L. 93–463, set out as a note under section 2 of Title 7, Agriculture.

Amendment by Pub. L. 93–438 effective 120 days after Oct. 11, 1974, or on such earlier date as the President may prescribe and publish in the Federal Register, except that officers provided for in sections 5811–5820 of Title 42, The Public Health and Welfare, may be nominated and appointed at any time after Oct. 11, 1974, see section 312(a) of Pub. L. 93–438, set out as a note under section 5801 of Title 42.

EFFECTIVE DATE OF 1973 AMENDMENT

Offices and salaries modified under amendment of this section by Pub. L. 93–83 prospectively only, effective on and after Aug. 6, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1972 AMENDMENTS

Section 404(c) of Pub. L. 92–603 provided that: "The amendments made by the preceding provisions of

this section [amending this section and section 5316 of this title] shall take effect on the first day of the first pay period of the Commissioner of Social Security, Department of Health, Education, and Welfare, which commences on or after the first day of the month which follows the month in which this Act is enacted [Oct. 30, 1972]."

Amendment by Pub. L. 92-302 effective May 18, 1972, see section 3 of Pub. L. 92-302, set out as a note under section 1004 of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Office of Management and Budget note set out under this section in the main volume.

PAY INCREASE; EFFECTIVE DATE

Persons occupying a position under the Executive Schedule on May 18, 1972, and later appointed to a position created or authorized by Pub. L. 92-302, not eligible to an increase in basic pay until Jan. 21, 1973, see section 3(c) of Pub. L. 92-302, set out as a note under section 1004 of Title 31, Money and Finance.

OFFICE OF EMERGENCY PREPAREDNESS

The Office of Emergency Preparedness, including the offices of Director, Deputy Director, Assistant Directors, and Regional Directors, was abolished and all functions, vested by law in the Office of Emergency Preparedness or the Director of the Office of Emergency Preparedness were transferred to the President of the United States by sections 1 and 3(a)(1) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to this title.

OFFICE OF SCIENCE AND TECHNOLOGY

The office of Deputy Director of the Office of Science and Technology was abolished and all functions vested by law in such office were transferred to the Director of the National Science Foundation by sections 2 and 3(a)(5) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to this title.

SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION, DEPUTY DIRECTOR OF OFFICE; REPEAL OF AUTHORITY FOR OFFICE

Par. (95) of this section establishing level IV position for Deputy Director of the Special Action Office for Drug Abuse Prevention, repealed effective June 30, 1975, see section 104 of Pub. L. 92-255, classified to section 1104 of Title 21, Food and Drugs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5317 of this title; title 2 sections 285e, 286e, 437c, 474, 601; title 15 sections 763, 2204, 2413; title 20 section 1221b; title 22 sections 290f, 866, 867; title 23 section 303; title 28 section 548; title 30 section 1121; title 31 sections 52b, 52c; title 38 section 4107; title 42 sections 1975b, 5041, 5553, 5871, 5872.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 1-162 of the District of Columbia Code.

§ 5316. Positions at level V.

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * *

(15) Associate Administrators, National Aeronautics and Space Administration (6).

(16), (17) Repealed. Pub. L. 93-74, § 8, July 23, 1973, 87 Stat. 175.

* * * * *

(25) Repealed. Pub. L. 92-22, § 3, June 1, 1971, 85 Stat. 76.

* * * * *

(28) Repealed. Pub. L. 92-302, § 2(d), May 18, 1972, 86 Stat. 149.

(29) Repealed. Pub. L. 93-438, title III, § 310(4), Oct. 11, 1974, 88 Stat. 1253.

* * * * *

(42) Director, United States Fish and Wildlife Service, Department of the Interior.

* * * * *

(51) Repealed. Pub. L. 92-603, title IV, § 404(a), Oct. 30, 1972, 86 Stat. 1488.

* * * * *

(62) Repealed. Pub. L. 93-438, title III, § 310(4), Oct. 11, 1974, 88 Stat. 1253.

* * * * *

(64) Repealed. Pub. L. 92-302, § 2(d), May 18, 1972, 86 Stat. 149.

* * * * *

(69) Repealed. Pub. L. 93-438, title III, § 310(4), Oct. 11, 1974, 88 Stat. 1253.

* * * * *

(81) General Counsel of the Nuclear Regulatory Commission.

* * * * *

(93) Repealed. Pub. L. 93-618, title I, § 172(c)(3), Jan. 3, 1975, 88 Stat. 2010.

* * * * *

(102) Repealed. Pub. L. 93-438, title III, § 310(4), Oct. 11, 1974, 88 Stat. 1253.

* * * * *

(109) Repealed. Pub. L. 93-126, § 9(c), as added Pub. L. 93-312, § 9, June 8, 1974, 88 Stat. 238.

* * * * *

(111) Repealed. Pub. L. 92-261, § 9(c), Mar. 24, 1972, 86 Stat. 110.

* * * * *

(122) Repealed. Pub. L. 93-383, title VIII, § 818(b), Aug. 22, 1974, 88 Stat. 740.

* * * * *

(131) Assistant Directors, Special Action Office for Drug Abuse Prevention (6).

(132) General Counsel of the Equal Employment Opportunity Commission.

(133) Director, National Cemetery System, Veterans' Administration.

(134) Deputy Administrator for Administration of the Law Enforcement Assistance Administration.

(135) General Counsel, Energy Research and Development Administration.

(136) Additional officers, Energy Research and Development Administration (8).

(137) General Counsel, Commodity Futures Trading Commission.

(138) Additional officers, Nuclear Regulatory Commission (5).

(139) Executive Director, Commodity Futures Trading Commission.

(As amended Pub. L. 92–22, § 3, June 1, 1971, 85 Stat. 76; Pub. L. 92–255, title II, § 212(c), Mar 21, 1972, 86 Stat. 69; Pub. L. 92–261, § 9 (c), (d), Mar. 24, 1972, 86 Stat. 110; Pub. L. 92–302, § 2(d), May 18, 1972, 86 Stat. 149; Pub. L. 92–603, title IV, § 404(a), Oct. 30, 1972, 86 Stat. 1488; Pub. L. 93–43, § 2(c), June 18, 1973, 87 Stat. 78; Pub. L. 93–74, § 8, July 23, 1973, 87 Stat. 175; Pub. L. 90–351, title I, § 506(b), as added Pub. L. 93–83, § 2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 93–271, § 2, Apr. 22, 1974, 88 Stat. 92; Pub. L. 93–126, § 9(c), as added Pub. L. 93–312, § 9, June 8, 1974, 88 Stat. 238; Pub. L. 93–383, title VIII, § 818(b), Aug. 22, 1974, 88 Stat. 740; Pub. L. 93–438, title III, § 310(4), Oct. 11, 1974, 88 Stat. 1253; Pub. L. 93–463, title I, § 102(c), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 93–618, title I, § 172(c)(3), Jan. 3, 1975, 88 Stat. 2010; Pub. L. 94–82, title II, § 202(b)(5), Aug 9, 1975, 89 Stat. 420; Pub. L. 94–183, § 2(19), Dec. 31, 1975, 89 Stat. 1058.)

1975 INCREASES IN SALARIES

Salaries of positions at Level V increased to $37,800 per annum, effective on the first day of the first pay period beginning on or after Oct. 1, 1975, see Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091, set out as a note under section 5332 of this title.

AMENDMENTS

1975—Pub. L. 94–82 substituted provisions applying level V of the Executive Schedule to positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title, for provisions applying such level V to positions for which the annual rate of basic pay is $28,000.

Par. (93). Pub. L. 93–618 struck out par. (93) "Members, United States Tariff Commission."

Pars. (134)–(139). Pub. L. 94–183 redesignated par. (133), Deputy Administrator for Administration of the Law Enforcement Assistance Administration, par. (134), General Counsel, Energy Research and Development Administration, par. (135), Additional officers, Energy Research and Development Administration (8), par. (135), General Counsel, Commodity Futures Trading Commission, par. (136), Additional officers, Nuclear Regulatory Commission (5), and par. (136), Executive Director, Commodity Futures Trading Commission, as pars. (134)–(139), respectively.

1974—Par. (29). Pub. L. 93–438 struck out par. (29) "Assistant General Manager, Atomic Energy Commission".

Par. (42). Pub. L. 93–271, § 2, substituted "Director, United States Fish and Wildlife" for "Commissioner of Fish and Wildlife".

Par. (62). Pub. L. 93–438 struck out par. (62) "Director of Regulation, Atomic Energy Commission". See section 5315(101) of this title.

Par. (69). Pub. L. 93–438 struck out par. (69) "Deputy General Manager, Atomic Energy Commission".

Par. (81). Pub. L. 93–438 substituted "General Counsel of the Nuclear Regulatory Commission" for "General Counsel of the Atomic Energy Commission".

Par. (102). Pub. L. 93–438 struck out par. (102) "Assistant General Managers, Atomic Energy Commission (2)".

Par. (109). Pub. L. 93–126, § 9(c), as added by Pub. L. 93–312, repealed par. (109), which related to the Director of International Scientific Affairs, Department of State.

Par. (122). Pub. L. 93–383 struck out par. (122) which provided for an Assistant Secretary of Housing and Urban Development for Administration.

Par. (134). Pub. L. 93–438 added par. (134).

Pars. (135), (136), Pub. L. 93–463 added pars. (135) and (136) relating, respectively, to General Counsel, Commodity Futures Trading Commission, and Executive Director, Commodity Futures Trading Commission.

Pars. (135), (136). Pub. L. 93–433 added pars. (135) and (136) relating, respectively, to additional officers, Nuclear Regulatory Commission, and additional officers, Energy Research and Development Administration.

1973—Pars. (15)–(17). Pub. L. 93–74 added par. (15), Associate Administrators, National Aeronautics and Space Administration (6), and repealed provisions of former pars. (15) for an Associate Administrator for Advanced Research and Technology, (16) for Associate Administrator for Space Science and Applications, and (17) for Associate Administrator for Manned Space Flight, National Aeronautics and Space Administration.

Pars. (131) to (133). Pub. L. 93–43 redesignated former par. "(131) General Counsel of the Equal Employment Opportunity Commission" as par. (132), and added par. (133), relating to Director, National Cemetery System.

Par. (133). Pub. L. 93–83 added par. (133), relating to Deputy Administrator for Administration of the Law Enforcement Assistance Administration.

1972—Pars. (28), (64). Pub. L. 92–302 struck out pars. (28) and (64) which provided, respectively, for an Assistant Secretary of the Treasury for Administration and a Deputy Under Secretary for Monetary Affairs, Department of the Treasury.

Par. (51). Pub. L. 92–603 struck out par. (51) "Commissioner of Social Security, Department of Health, Education, and Welfare". See section 5315 of this title.

Par. (111). Pub. L. 92–261, § 9(c), struck out par. (111) "Members, Equal Employment Opportunity Commission (4)", renumbered as par. (72) of section 5315 of this title.

Par. (131). Pub. L. 92–255 added par. (131), relating to Assistant Directors, Special Action Office for Drug Abuse Prevention.

Par. (131). Pub. L. 92–261, § 9(d) added par. (131), relating to General Counsel of the Equal Employment Opportunity Commission.

1971—Par. (25). Pub. L. 92–22 struck out position of Assistant Secretary of the Interior for Administration, now covered by section 1453a of Title 43 and section 5315 (18) of this title.

EFFECTIVE DATE OF 1974 AMENDMENTS

Amendment by Pub. L. 93–463 effective Oct. 23, 1974, see section 418 of Pub. L. 93–463, set out as a note under section 2 of Title 7, Agriculture.

Amendment by Pub. L. 93–438 effective 120 days after Oct. 11, 1974, or on such earlier date as the President may prescribe and publish in the Federal Register, except that officers provided for in sections 5811–5820 of Title 42, The Public Health and Welfare, may be nominated and appointed at any time after Oct. 11, 1974, see section 312(a) of Pub. L. 93–438, set out as a note under section 5801 of Title 42.

Amendment by Pub. L. 93–271 effective July 1, 1974, see section 3 of Pub. L. 93–271, set out as a note under section 742b of Title 16, Conservation.

EFFECTIVE DATE OF 1973 AMENDMENTS

Redesignation of former par. (131) as (132) and enactment of par. (133) effective June 18, 1973, see section 10(a) of Pub. L. 93–43, set out as a note under section 1000 of Title 38, Veterans' Benefits.

Offices and salaries modified under amendment of this section by Pub. L. 93–83 prospectively only, effective on and after Aug. 6, 1973, see section 3 of Pub. L. 93–83, set out as a note under section 3701 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1972 AMENDMENTS

Amendment by Pub. L. 92–603 shall take effect on the first day of the first pay period of the Commissioner of Social Security, Department of Health, Education, and Welfare, which commences on or after the first day of the month which follows the month in which Pub. L.

92–603 was enacted, see section 404(c) of Pub. L. 92–603, set out as a note under section 5315 of this title.

Amendment by Pub. L. 92–302, abolishing offices of Assistant Secretary of the Treasury for Administration and Deputy Under Secretary for Monetary Affairs, Department of the Treasury, to take effect upon confirmation by the Senate of Presidential appointees to fill the successor positions created by Pub. L. 92–302, see, section 3(b) of Pub. L. 92–302, set out as a note under section 1004 of Title 31, Money and Finance.

EFFECTIVE DATE OF 1971 AMENDMENT

Repeal of Par. (25) by Pub. L. 92–22 effective upon Senate confirmation of Presidential appointment under section 1453a of Title 43 and section 5315(18) of this title, see note set out under section 1453a of Title 43, Public Lands.

CHANGE OF NAME

Commissioner of Patents, referred to in par. (48), was redesignated the Commissioner of Patents and Trademarks by Pub. L. 93–596, § 3, Jan. 2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

The Bureau of Narcotics and Dangerous Drugs, including the office of Director thereof, in the Department of Justice was abolished by 1973 Reorg. Plan No. 2, eff. July 1, 1973, 38 FR 15932, 87 Stat. 1091, set out in the Appendix to this title. 1973 Reorg. Plan No. 2 also created in the Department of Justice an agency to be known as the Drug Enforcement Administration, with an Administrator and Deputy Administrator appointed by the President with the advice and consent of the Senate.

COMMUNITY SERVICES ADMINISTRATION

Pub. L. 93–644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 to create the Community Services Administration as the successor authority to the Office of Economic Opportunity, referred to in par. (101). For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regulations, or other official documents or proceedings to be deemed, on or after Jan. 4, 1975, to refer to the Community Services Administration, or to the Director thereof, see section 2941 of Title 42, The Public Health and Welfare.

OFFICE OF EMERGENCY PREPAREDNESS

The Office of Emergency Preparedness, including the offices of Director, Deputy Director, Assistant Directors, and Regional Directors, was abolished and all functions vested by law in the Office of Emergency Preparedness or the Director of the Office of Emergency Preparedness were transferred to the President of the United States by sections 1 and 3(a)(1) of 1973 Reorg. Plan No. 1, set out in the Appendix to this title.

SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION, ASSISTANT DIRECTORS OF OFFICE; REPEAL OF AUTHORITY FOR OFFICE

Par. (131) of this section establishing level V positions for six Assistant Directors of the Special Action Office for Drug Abuse Prevention, repealed effective June 30, 1975, see section 104 of Pub. L. 92–255, classified to section 1104 of Title 21, Food and Drugs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5317 of this title; title 2 sections 60a–2, 166, 282b, 353, 437c; title 12 section 1723a; title 15 sections 763, 2204; title 20 section 1221e; title 22 sections 866, 2872; title 23 section 303; title 28 sections 332, 548, 625; title 31 section 1154; title 38 section 4107; title 39 section 206; title 42 sections 1864a, 2996d, 4302, 5041, 5871, 5872; title 43 section 1616; title 44 section 3319.

§ 5317. Presidential authority to place positions at levels IV and V.

EXECUTIVE ORDER NO. 11248

Ex. Ord. No. 11248, Oct. 10, 1965, 30 F.R. 12999, as amended, formerly set out as a note under this section, which related to the placement of positions in Levels IV and V, was revoked by Ex. Ord. No. 11708, Mar. 27, 1973, 38 F.R. 7979, set out as a note under this section.

EXECUTIVE ORDER NO. 11708

Ex. Ord. No. 11708, Mar. 23, 1973, 38 F.R. 7979, as amended by Ex. Ord. No. 11715, Apr. 24, 1973, 38 F.R. 10246; Ex. Ord. No. 11727, July 6, 1973, 38 F.R. 18357; Ex. Ord. No. 11736, Aug. 6, 1973, 38 F.R. 21387, formerly set out as a note under this section, which related to the authority of the President to place positions at Levels IV and V, was superseded by Ex. Ord. No. 11768, Feb. 20, 1974, 39 F.R. 6693, set out as a note under this section.

EXECUTIVE ORDER NO. 11768

Ex. Ord. No. 11768, Feb. 20, 1974, 39 F.R. 6693, as amended by Ex. Ord. No. 11774, Mar. 26, 1974, 39 F.R. 11413; Ex. Ord. No. 11780, Apr. 22, 1974, 39 F.R. 14497; Ex. Ord. No. 11831, Jan. 9, 1975, 40 F.R. 2413; Ex. Ord. No. 11843, Mar. 18, 1975, 40 F.R. 12639, formerly set out as a note under this section, which related to the authority of the President to place positions in Levels IV and V, was superseded by Ex. Ord. No. 11861, May 21, 1975, 40 F.R. 22531, set out as a note under this section.

EX. ORD. NO. 11861. PLACEMENT OF POSITIONS IN LEVELS IV AND V

Ex. Ord. 11861, May 21, 1975, 40 F.R. 22531, as amended by Ex. Ord. No. 11864, June 13, 1975, 40 F.R. 25579; Ex. Ord. No. 11872, July 21, 1975, 40 F.R. 30619; Ex. Ord. No. 11877, Sept. 2, 1975, 40 F.R. 40797; Ex. Ord. No. 11885, Oct. 15, 1975, 40 F.R. 48491; Ex. Ord. No. 11893, Dec. 31, 1975, 41 F.R. 1040; Ex. Ord. No. 11898, Jan. 14, 1976, 41 F.R. 2365, provided:

By virtue of the authority vested in me by section 5317 of title 5 of the United States Code [this section], it is ordered as follows:

SECTION 1. The following offices and positions are placed in level IV of the Executive Schedule:

(1) Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare.

(2) Administrator, Alcohol, Drug Abuse and Mental Health Administration, Department of Health, Education, and Welfare.

(3) Administrator, Health Services Administration, Department of Health, Education, and Welfare.

(4) Director, United States Secret Service, Department of the Treasury.

(5) Associate Directors, (4) Office of Management and Budget, Executive Office of the President.

(6) Director of Telecommunications and Command Control Systems, Department of Defense.

(7) Principal Deputy Director of Defense Research and Engineering, Department of Defense.

(8) Deputy Under Secretary for International Labor Affairs, Department of Labor.

(9) Deputy Under Secretary, Department of Transportation.

(10) Assistant to the Secretary for Congressional Affairs, Department of Commerce.

(11) Special Prosecutor, Department of Justice.

(12) Associate Attorney General, Department of Justice.

(13) Adviser to the Secretary (Counselor, Economic Policy Board), Department of the Treasury.

(14) Executive Vice President, Export-Import Bank.

(15) Deputy Under Secretary for Congressional and Public Affairs, Department of Agriculture.

SEC. 2. The following offices and positions are placed in level V of the Executive Schedule:

(1) Defense Representative, Iran, Department of Defense.

(2) Deputy Assistant Secretary of Defense for Reserve Affairs, Department of Defense.

(3) Assistant Secretary, Comptroller, Department of Health, Education, and Welfare.

(4) Deputy Commissioner of Social Security, Department of Health, Education, and Welfare.

(5) Commissioner on Aging, Department of Health, Education, and Welfare.

(6) Deputy Director, United States Secret Service, Department of the Treasury.

(7) [Deleted.]

(8) Commissioner, Automated Data and Telecommunications Service, General Services Administration.

(9) [Deleted.]

(10) Principal Deputy Assistant Secretary (International Security Affairs), Department of Defense.

(11) Executive Director, Pension Benefit Guaranty Corporation, Department of Labor.

(12) Administrator for Pension and Welfare Benefits, Department of Labor.

SEC. 3. Nothing in this order shall be deemed to terminate or otherwise affect the appointment, or to require the reappointment, of any occupant of any position listed in section 1 or section 2 of this order who was the occupant of that position immediately before the issuance of this order.

SEC. 4. Executive Order No. 11768 of February 20, 1974, as amended, is hereby superseded.

GERALD R. FORD.

EXECUTIVE ORDER NO. 11864

Ex. Ord. No. 11864, June 13, 1975, 40 F.R. 25579, formerly set out as a note under this section, which placed the position of Adviser to the Secretary (Counselor, Economic Policy Board), Department of the Treasury, to terminate effective August 1, 1975, in level IV of the Executive Schedule was superseded by Ex. Ord. No. 11877, Sept. 2, 1975, 40 F.R. 40797.

§ 5318. Adjustments in rates of pay.

Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of this title in the rates of pay under the General Schedule, the annual rate of pay for positions at each level of the Executive Schedule shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such annual rate of pay which corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under such section 5305) of the adjustment in the rates of pay under the General Schedule. (Added Pub. L. 94–82, title II, § 202(a), Aug. 9, 1975, 89 Stat. 419.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5312 to 5316 of this title.

SUBCHAPTER III.—GENERAL SCHEDULE PAY RATES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 2 section 293; title 7 sections 1507, 1981; title 12 section 2405; title 15 sections 2051, 1942, 2451; title 18 section 4001; title 20 sections 1221d, 1221e, 1417, 2106; title 22 sections 272a, 277d–3, 277d–19, 280b, 2801, 280k, 287e, 2871, 289b, 290b, 886, 928, 1044, 2825, 2873; title 25 section 640d–11; title 26 sections 9010, 9040; title 33 sections 984, 1325, 1374; title 38 section 2003; title 40 sections 174j–8, 873; title 41 section 46; title 42 section 5149; title 43 section 1616; title 44 section 303; title 45 sections 154, 362; title 50 section 404; title 50 App. sections 460, 2169.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in sections 1–251, 1–518, 1–1105, 2–408, 2–1211, 2–1726, 2–1808, 2–2224, 2–2225, 2–2415, 5–426, 5–713, 6–1203, 8–209, 9–146, 11–1726, 11–2102, 25–104, 25–104a, 29–935, 29–1093, 31–1301, 31–1402, 31–1603, 31–1622, 33–422, 35–401, 36–437, 40–603, 40–715, 40–809, 49–401 of the District of Columbia Code.

§ 5332. The General Schedule.

ADJUSTMENT OF PAY RATES EFFECTIVE OCTOBER 1, 1972

Pub. L. 93–549, Dec. 26, 1974, 88 Stat. 1743, provided: "That notwithstanding the provisions of any other law or any regulation issued thereunder, no officer or employee of the United States shall have his pay reduced by reason of Executive Order 11777, dated April 12, 1974 [formerly set out under this section], relating to the effective date of the 1972 Federal pay comparability adjustment.

"Sec. 2. The Civil Service Commission shall issue regulations necessary to implement this Act."

EXECUTIVE ORDER NO. 11413

Ex. Ord. No. 11413, June 11, 1968, 33 F.R. 8641, set out as a note under this section, which provided for the adjustment of pay rates effective July 1, 1968, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, set out as a note under this section.

EXECUTIVE ORDER NO. 11474

Ex. Ord. No. 11474, June 16, 1969, 34 F.R. 9605, set out as a note under this section, which provided for the adjustment of pay rates effective July 1, 1969, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, set out as a note under this section.

EXECUTIVE ORDER NO. 11524

Ex. Ord. No. 11524, Apr. 15, 1970, 35 F.R. 6247, set out as a note under this section, which provided for the adjustment of pay rates effective first pay period on or after Dec. 27, 1969, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, set out as a note under this section.

EXECUTIVE ORDER NO. 11576

Ex. Ord. No. 11576, Jan. 8, 1971, 36 F.R. 347, formerly set out as a note under this section, which provided for the adjustment of pay rates effective Jan. 1, 1971, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, set out as a note under this section.

EXECUTIVE ORDER NO. 11637

Ex. Ord. No. 11637, Dec. 22, 1971, 36 F.R. 24911, formerly set out as a note under this section, which provided for the adjustment of pay rates effective Jan. 1, 1972, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, set out as a note under this section.

EXECUTIVE ORDER NO. 11691

Ex. Ord. No. 11691, Dec. 15, 1972, 37 F.R. 27607, formerly set out as a note under this section, which provided for the adjustment of pay rates effective Oct. 1, 1973, was superseded by Ex. Ord No. 11811, Oct. 7, 1974, 39 F.R. 36302, set out as a note under this section.

EXECUTIVE ORDER NO. 11739

Ex. Ord. No. 11739, Oct. 3, 1973, 38 F.R. 27591, formerly set out as a note under this section, which provided for the adjusement of pay rates effective Oct. 1, 1973, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, set out as a note under this section.

EXECUTIVE ORDER NO. 11811

Ex. Ord. No. 11811, Oct. 7, 1975, 39 F.R. 36302, formerly set out as a note under this section, which provided for the adjustment of pay rates effective Oct. 1, 1974, was superseded by Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091, set out as a note under this section.

EX. ORD. NO. 11883. ADJUSTMENT OF PAY RATES EFFECTIVE OCT. 1, 1975

Ex. Ord. 11883, Oct. 6, 1975, 40 F.R. 47091, provided:

By virtue of the authority vested in me by the Constitution and the laws of the United States of America

and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. *Statutory Pay Systems.* Pursuant to the provisions of subchapter I of chapter 53 of title 5 of the United States Code [this subchapter], the rates of basic pay and salaries are adjusted, as set forth at the schedules attached hereto and made a part hereof, for the following statutory pay systems.

(a) The General Schedule (5 U.S.C. 5332(a)) [subsec. (a) of this section] at Schedule 1;

(b) the schedules for the Foreign Service (22 U.S.C. 867 and 870(a)) at Schedule 2; and

(c) the schedules for the Department of Medicine and Surgery, Veterans Administration (38 U.S.C. 4107) at Schedule 3.

SEC. 2. *Pay and Allowances For Members of the Uniformed Services.* Pursuant to the provisions of section 1009 of title 37 of the United States Code, the rates of monthly basic pay (37 U.S.C. 203(a)), the rates of basic allowances for subsistence (37 U.S.C. 402), and the rates of basic allowances for quarters (37 U.S.C. 403(a)) are adjusted, as set forth at Schedule 4 attached hereto and made a part hereof, for members of the uniforced services.

SEC. 3. *Executive Salaries.* The Executive Salary Cost-of-Living Adjustment Act (Pub. L. 94–82, 89 Stat. 419) [see short title note under section 5312 of this title] provides for adjustments in the rates of pay and salaries, as set forth at the schedules attached hereto and made a part hereof, for the following:

(a) The Vice President (3 U.S.C. 104) and the Executive Schedule (5 U.S.C. 5312–5316) at Schedule 5;

(b) Congressional Salaries (2 U.S.C. 31) at Schedule 6; and

(c) Judicial Salaries (28 U.S.C. 5, 44(d), 135, 173, 213, 252, 792(b) and 11 U.S.C. 68(a)), at Schedule 7.

SEC. 4. *Effective Date.* The adjustments in rates of monthly basic pay and basic allowances for subsistence and quarters for members of the uniformed services shall be effective on October 1, 1975. All other adjustments of salary or pay shall be effective on the first day of the first applicable pay period beginning on or after October 1, 1975.

SEC. 5. *Superseded Orders.* Executive Order No. 11811 of October 7, 1974, and Executive Order No. 11812 of October 7, 1974, are hereby superseded.

GERALD R. FORD.

SCHEDULE 1

The General Schedule

	1	2	3	4	5	6	7	8	9	10
GS–1	$5,559	$5,744	$5,929	$6,114	$6,299	$6,484	$6,669	$6,854	$7,039	$7,224
GS–2	6,296	6,506	6,716	6,926	7,136	7,346	7,556	7,766	7,976	8,186
GS–3	7,102	7,339	7,576	7,813	8,050	8,287	8,524	8,761	8,998	9,235
GS–4	7,976	8,242	8,508	8,774	9,040	9,306	9,572	9,838	10,104	10,370
GS–5	8,925	9,223	9,521	9,819	10,117	10,415	10,713	11,011	11,309	11,607
GS–6	9,946	10,278	10,610	10,942	11,274	11,606	11,938	12,270	12,602	12,934
GS–7	11,046	11,414	11,782	12,150	12,518	12,886	13,254	13,622	13,990	14,358
GS–8	12,222	12,629	13,036	13,443	13,850	14,257	14,664	15,071	15,478	15,385
GS–9	13,482	13,931	14,380	14,829	15,278	15,727	16,176	16,625	17,074	17,523
GS–10	14,824	15,318	15,812	16,306	16,800	17,294	17,788	18,282	18,776	19,270
GS–11	16,255	16,797	17,339	17,881	18,423	18,965	19,507	20,049	20,591	21,133
GS–12	19,386	20,032	20,678	21,324	21,970	22,616	23,262	23,908	24,554	25,200
GS–13	22,906	23,670	24,434	25,198	25,962	26,726	27,490	28,254	29,018	29,783
GS–14	26,861	27,756	28,651	29,546	30,441	31,336	32,231	33,126	34,021	34,916
GS–15	31,309	32,353	33,397	34,441	35,485	36,529	37,573	[1] 38,617	[1] 39,661	[1] 40,705
GS–16	36,338	37,549	[1] 38,760	[1] 39,971	[1] 41,182	[1] 42,393	[1] 43,604	[1] 44,815	[1] 46,026	
GS–17	[1] 42,066	[1] 43,468	[1] 44,870	[1] 46,272	[1] 47,674					
GS–18	[1] 48,654									

[1] The rate of basic pay for employees at these rates is limited by Section 5306 of Title 5 of the United States Code to the rate for level V of the Executive Schedule (as of the effective date of this schedule, $37,800).

SCHEDULE 2

Foreign Service Schedules

PART I.—THE PER ANNUM SALARIES OF FOREIGN SERVICE OFFICERS

	1	2	3	4	5	6	7
SO–1	[1] $46,045	[1] $47,580	[1] $48,654				
SO–2	36,092	37,295	[1] 38,498	[1] 39,701	[1] 40,904	[1] 42,107	[1] 43,310
SO–3	28,582	29,535	30,488	31,441	32,394	33,347	34,300
SO–4	22,906	23,670	24,434	25,198	25,962	26,726	27,490
SO–5	18,612	19,232	19,852	20,472	21,092	21,712	22,332
SO–6	15,359	15,871	16,383	16,895	17,407	17,919	18,431
SO–7	12,899	13,329	13,759	14,189	14,619	15,049	15,479
SO–8	11,046	11,414	11,782	12,150	12,518	12,886	13,254

PART II.—THE PER ANNUM SALARIES OF FOREIGN SERVICE STAFF OFFICERS AND EMPLOYEES

	1	2	3	4	5	6	7	8	9	10
SS–1	$28,582	$29,535	$30,488	$31,441	$32,394	$33,347	$34,300	$35,253	$36,206	$37,150
SS–2	22,906	23,670	24,434	25,198	25,962	26,726	27,490	28,254	29,018	29,782
SS–3	18,612	19,232	19,852	20,472	21,092	21,712	22,332	22,952	23,572	24,192
SS–4	15,359	15,871	16,383	16,895	17,407	17,919	18,431	18,943	19,455	19,967
SS–5	13,770	14,229	14,688	15,147	15,606	16,065	16,524	16,983	17,442	17,901
SS–6	12,345	12,757	13,169	13,581	13,993	14,405	14,817	15,229	15,641	16,053
SS–7	11,068	11,437	11,806	12,175	12,544	12,913	13,282	13,651	14,020	14,389
SS–8	9,923	10,254	10,585	10,916	11,247	11,578	11,909	12,240	12,571	12,902
SS–9	8,896	9,193	9,490	9,787	10,084	10,381	10,678	10,975	11,272	11,569
SS–10	7,976	8,242	8,508	8,774	9,040	9,306	9,572	9,838	10,104	10,370

[1] The rate of basic pay for employees at these rates is limited by Section 5308 of Title 5 of the United States Code to the rate for level V of the Executive Schedule (as of the effective date of this schedule, $37,800).

SCHEDULE 3

Department of Medicine and Surgery, Veterans Administration

	Minimum	Maximum
Section 4103 schedule:		
Associate Deputy Chief Medical Director	(1)	[2] $37,800
Assistant Chief Medical Director	(1)	[3] 48,654
Medical Director	[3] $42,066	[3] 47,674
Director of Nursing Service	[3] 42,066	[3] 47,674
Director of Chaplain Service	36,338	[3] 46,026
Director of Pharmacy Service	36,338	[3] 46,026
Director of Dietetic Service	36,338	[3] 46,026
Director of Optometry	36,338	[3] 46,026
Physician and Dentist schedule:		
Director grade	36,338	[3] 46,026
Executive grade	33,736	[3] 43,861
Chief grade	31,309	[3] 40,705
Senior grade	26,861	34,916
Intermediate grade	22,906	29,782
Full grade	19,386	25,200
Associate grade	16,255	21,133
Nurse schedule:		
Director grade	31,309	[3] 40,705
Assistant Director grade	26,861	34,916
Chief grade	22,906	29,782
Senior grade	19,386	25,200
Intermediate grade	16,255	21,133
Full grade	13,482	17,523
Associate grade	11,623	15,106
Junior grade	9,946	12,934

[1] Single rate.
[2] The rate of basic pay for this position is set by law at the annual rate provided for positions in level V of the Executive Schedule (as of the effective date of this schedule, $37,800).
[3] The rate of basic pay for employees at these rates is limited by Section 5308 of Title 5 of the United States Code to the rate for level V of the Executive Schedule (as of the effective date of this schedule, $37,800).

SCHEDULE 4

Pay and Allowances of the Uniformed Services

PART I.– MONTHLY BASIC PAY

Commissioned Officers

Pay grade	Years of service computed under section 205				
	2 or less	Over 2	Over 3	Over 4	Over 6
0–10 [1]	$2,841.00	$2,940.90	$2,940.90	$2,940.90	$2,940.90
0–9	2,517.90	2,584.20	2,639.10	2,639.10	2,639.10
0–8	2,280.60	2,349.00	2,404.80	2,404.80	2,404.80
0–7	1,894.80	2,024.10	2,024.10	2,024.10	2,114.40
0–6	1,404.60	1,543.50	1,644.00	1,644.00	1,644.00
0–5	1,123.20	1,319.40	1,410.30	1,410.30	1,410.30
0–4	947.10	1,152.60	1,230.30	1,230.30	1,252.50
0–3 [2]	880.20	983.70	1,051.50	1,163.70	1,219.20
0–2 [2]	767.10	838.20	1,006.80	1,040.40	1,062.30
0–1 [2]	666.00	693.30	838.20	838.20	838.20
	Over 8	Over 10	Over 12	Over 14	Over 16
0–10 [1]	$3,053.70	$3,053.70	*$3,287.70	*$3,287.70	*$3,522.90
0–9	2,706.00	2,706.00	2,818.20	2,818.20	3,053.70
0–8	2,584.20	2,584.20	2,706.00	2,706.00	2,818.20
0–7	2,114.40	2,237.40	2,237.40	2,349.00	2,584.20
0–6	1,644.00	1,644.00	1,644.00	1,699.80	1,968.90
0–5	1,410.30	1,453.50	1,530.90	1,633.20	1,755.90
0–4	1,308.30	1,397.10	1,476.00	1,543.50	1,610.70
0–3 [2]	1,263.30	1,330.80	1,397.10	1,431.30	1,431.30
0–2 [2]	1,062.30	1,062.30	1,062.30	1,062.30	1,062.30
0–1 [2]	838.20	838.20	838.20	838.20	838.20
	Over 18	Over 20	Over 22	Over 26	Over 30
0–10 [1]	*$3,522.90	*$3,758.40	*$3,758.40	*$3,992.70	*$3,992.70
0–9	3,053.70	*3,287.70	*3,287.70	*3,522.90	*3,522.90
0–8	2,940.90	3,053.70	*3,176.10	*3,176.10	*3,176.10
0–7	2,761.80	2,761.80	2,761.80	2,761.80	2,761.80
0–6	2,069.70	2,114.40	2,237.40	2,426.10	2,426.10
0–5	1,856.70	1,912.50	1,979.70	1,979.70	1,979.70
0–4	1,655.40	1,655.40	1,655.40	1,655.40	1,655.40
0–3 [2]	1,431.30	1,431.30	1,431.30	1,431.30	1,431.30
0–2 [2]	1,062.30	1,062.30	1,062.30	1,062.30	1,062.30
0–1 [2]	838.20	838.20	838.20	838.20	838.20

[1] While serving as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, basic pay for this grade is $4,405.50* regardless of cumulative years of service computed under section 205 of title 37 of the United States Code.
[2] Does not apply to commissioned officers who have been credited with over 4 years' active service as enlisted members.
*The rate of basic pay for military personnel at these rates is limited by section 5308 of title 5 of the United States Code, as added by the Federal Pay Comparability Act of 1970, to the rate for level V of the Executive Schedule or $3,150.00 per month.

SCHEDULE 4—*Continued*

Commissioned officers who have been credited with over 4 years' active service as enlisted members

Pay grade	Years of service computed under section 205			
	Over 4	Over 6	Over 8	Over 10
O–3	$1,163.70	$1,219.20	$1,263.30	$1,330.80
O–2	1,040.40	1,062.30	1,095.90	1,152.60
O–1	838.20	894.90	928.20	961.80
	Over 12	Over 14	Over 16	Over 18
O–3	$1,397.10	$1,453.50	$1,453.50	$1,453.50
O–2	1,197.30	1,230.30	1,230.30	1,230.30
O–1	995.40	1,040.40	1,040.40	1,040.40
	Over 20	Over 22	Over 26	Over 30
O–3	$1,453.50	$1,453.50	$1,453.50	$1,453.50
O–2	1,230.30	1,230.30	1,230.30	1,230.30
O–1	1,040.40	1,040.40	1,040.40	1,040.40

Warrant Officers

Pay grade	Years of service computed under section 205				
	2 or less	Over 2	Over 3	Over 4	Over 6
W–4	$896.40	$961.80	$961.80	$983.70	$1,028.70
W–3	815.10	884.10	884.10	894.90	905.70
W–2	713.70	771.90	771.90	794.40	838.20
W–1	594.60	681.90	681.90	738.60	771.90
	Over 8	Over 10	Over 12	Over 14	Over 16
W–4	$1,073.70	$1,118.70	$1,197.30	$1,252.50	$1,296.90
W–3	972.00	1,028.70	1,062.30	1,095.90	1,128.60
W–2	884.10	917.40	950.70	983.70	1,118.20
W–1	805.50	838.20	872.70	905.70	939.30
	Over 18	Over 20	Over 22	Over 26	Over 30
W–4	$1,330.80	$1,374.90	$1,420.80	$1,530.90	$1,530.90
W–3	1,163.70	1,208.40	1,252.50	1,296.90	1,296.90
W–2	1,051.50	1,084.80	1,128.60	1,128.60	1,128.60
W–1	972.00	1,006.80	1,006.80	1,006.80	1,006.80

Enlisted Members

Pay grade	Years of service computed under section 205				
	2 or less	Over 2	Over 3	Over 4	Over 6
E–9 [1]	0	0	0	0	0
E–8	0	0	0	0	0
E–7	$596.70	$643.80	$667.80	$691.20	$715.20
E–6	515.40	561.90	585.30	609.60	632.70
E–5	452.40	492.60	516.30	538.80	573.90
E–4	435.00	459.30	486.00	524.10	544.50
E–3	418.20	441.30	459.00	477.00	477.00
E–2	402.60	402.60	402.60	402.60	402.60
E–1	361.20	361.20	361.20	361.20	361.20
	Over 8	Over 10	Over 12	Over 14	Over 16
E–9 [1]	0	$1,018.50	$1,041.60	$1,065.30	$1,089.90
E–8	$854.70	878.40	901.80	925.50	949.50
E–7	737.40	760.80	784.80	820.20	843.30
E–6	656.10	679.80	715.20	737.40	760.80
E–5	597.30	621.30	643.80	656.10	656.10
E–4	544.50	544.50	544.50	544.50	544.50
E–3	477.00	477.00	477.00	477.00	477.00
E–2	402.60	402.60	402.60	402.60	402.60
E–1	361.20	361.20	361.20	361.20	361.20
	Over 18	Over 20	Over 22	Over 26	Over 30
E–9 [1]	$1,113.90	$1,135.80	$1,195.80	$1,311.60	$1,311.60
E–8	971.70	995.70	1,053.90	1,171.80	1,171.80
E–7	867.00	878.40	937.50	1,053.90	1,053.90
E–6	772.80	772.80	772.80	772.80	772.80
E–5	656.10	656.10	656.10	656.10	656.10
E–4	544.50	544.50	544.50	544.50	544.50
E–3	477.00	477.00	477.00	477.00	477.00
E–2	402.60	402.60	402.60	402.60	402.60
E–1	361.20	361.20	361.20	361.20	361.20

[1] While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps, basic pay for this grade is $1,594.50 regardless of cumulative years of service computed under section 205 of title 37 of the United States Code.

SCHEDULE 4—Continued

Pay and Allowances of the Uniformed Services—Continued

PART II.—BASIC ALLOWANCE FOR SUBSISTENCE RATES

Officers	$53.05 per month.
Enlisted Members:	
When on leave or authorized to mess separately.	2.53 per day.
When rations in-kind are not available	2.85 per day.
When assigned to duty under emergency conditions where no messing facilities of the United States are available.	3.79 per day.

PART III—MONTHLY BASIC ALLOWANCE FOR QUARTERS RATES

Pay grade	Without dependents	With dependents
	Commissioned Officers	
O-10	$255.30	$319.20
O-9	255.30	319.20
O-8	255.30	319.20
O-7	255.30	319.20
O-6	234.60	286.20
O-5	219.60	264.60
O-4	198.00	238.80
O-3	175.50	216.60
O-2	153.60	194.70
O-1	120.60	156.9
	Warrant Officers	
W-4	$191.10	$230.40
W-3	172.20	212.40
W-2	151.80	192.60
W-1	137.40	178.20
	Enlisted Members	
E-9	$144.90	$204.00
E-8	135.00	190.80
E-7	115.80	178.80
E-6	106.20	166.20
E-5	102.60	153.60
E-4	90.30	134.40
E-3	80.10	116.10
E-2	70.80	116.10
E-1	66.60	116.10

SCHEDULE 5

Vice President and the Executive Schedule

Vice President	$65,600
Level I	63,000
Level II	44,600
Level III	42,000
Level IV	39,900
Level V	37,800

SCHEDULE 6

Congressional Salaries

Senator	$44,600
Member of the House of Representatives	44,600
Delegate to the House of Representatives	44,600
Resident Commissioner from Puerto Rico	44,600
President pro tempore of the Senate	52,000
Majority leader and minority leader of Senate	52,000
Majority leader and minority leader of House of Representatives.	52,000
Speaker of the House of Representatives	65,600

SCHEDULE 7

Judicial Salaries

Chief Justice of the Supreme Court	$65,600
Associate Justices of the Supreme Court	63,000
Circuit Judges	44,600
District Judges	42,000
Judges of the Court of Claims	44,600
Judges of the Court of Customs and Patent Appeals.	44,600
Judges of the Customs Court	42,000
Commissioners of the Court of Claims	37,800
Referees in Bankruptcy (full-time)	37,800

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 575 of this title; title 2 sections 60a–1, 60a–2, 476, 601; title 7 section 16; title 12 section 2405; title 15 sections 205h, 2051, 766, 2412, 2451; title 16 sections 1401, 1403; title 18 sections 3153, 4351, 4352; title 19 section 2171; title 20 sections 1102, 1135c, 1135c–1, 1221e, 1221f, 1233d, 1402, 1532, 2011, 2012, 2103; title 22 sections 1037a, 2512, 2903, 2905; title 25 section 640d–11; title 28 section 332; title 29 sections 183, 656, 661, 676, 774, 792; title 30 section 938; title 31 section 52c; title 33 sections 906, 1320, 1325, 1374; title 37 section 1009; title 42 sections 1320a–1, 1320c–12, 1395oo, 1962a–4, 1062b–4, 1995d, 3015, 3765, 3774, 4845, 5042, 5612, 5619, 5651; title 44 section 3319; title 45 section 715; title 50 App. section 2169.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 1–143, 1–1151, 1–1155, 1–1182, 11–2301, 431 and 434 of title 11, Appendix, 23–1305, 23–1306, 31–1522, 31–1713, 31–1715, 43–205, 47–646 of the District of Columbia Code.

§ 5334. Rate on change of position or type of appointment; regulations.

* * * * *

(c) An employee in the legislative branch who is paid by the Secretary of the Senate or the Clerk of the House of Representatives, and who has completed two or more years of service as such an employee, and a Member of the Senate or House of Representatives who has completed two or more years of service as such a Member, may, on appointment to a position to which this subchapter applies, have his initial rate of pay fixed—

* * * * *

CODIFICATION

The first part of subsec. (c) of this section has been set out in this Supplement to correct a typographical error.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 4540, 7212, 9540; title 40 App. section 109.

§ 5337. Pay savings.

* * * * *

(b) The rate of basic pay to which an employee is entitled under subsection (a) of this section with respect to each reduction in grade to which that subsection applies may not exceed the sum of—

(1) the minimum rate of the grade to which he is reduced under each reduction in grade to which that subsection applies (including each increase in rate of basic pay provided by statute); and

(2) the difference between his rate immediately before the first reduction in grade to which that subsection applies (including each increase in rate of basic pay provided by statute) and the minimum rate of that grade which is three grades lower than the grade from which he was reduced under the first of the reductions in grade (including each increase in the rate of basic pay provided by statute).

(c) Under regulations prescribed by the Civil Service Commission consistent with the provisions of subsections (a) and (b) of this section, an employee who is reduced to a grade of the General Schedule from a position to which this subchapter does not apply is entitled to a retained scheduled rate of pay. (As amended Pub. L. 92–392, § 3, Aug. 19, 1972, 86 Stat. 573.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–392, § 3(1), substituted "to which that subsection applies" for "to which this section applies" in introductory text and cls. (1) and (2).

Subsec. (c). Pub. L. 92–392, § 3(2), added subsec. (c).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as a note under section 5341 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5107, 5334, 8704 of this title; title 10 sections 4540, 7212, 9540.

SUBCHAPTER IV.—PREVAILING RATE SYSTEMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2105, 5541, 7154 of this title.

§ 5341. Policy.

It is the policy of Congress that rates of pay of prevailing rate employees be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and be based on principles that—

(1) there will be equal pay for substantially equal work for all prevailing rate employees who are working under similar conditions of employment in all agencies within the same local wage area;

(2) there will be relative differences in pay within a local wage area when there are substantial or recognizable differences in duties, responsibilities, and qualification requirements among positions;

(3) the level of rates of pay will be maintained in line with prevailing levels for comparable work within a local wage area; and

(4) the level of rates of pay will be maintained so as to attract and retain qualified prevailing rate employees.

(Added Pub. L. 92–392, § 1(a), Aug. 19, 1972, 86 Stat. 564.)

CODIFICATION

A prior section 5341, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 471; Pub. L. 90–83, § 1(97), Sept. 11, 1967, 81 Stat. 220; Pub. L. 90–560, § 4, Oct. 12, 1968, 82 Stat. 997, provided prevailing rate system for trades and crafts and is now covered by sections 5343 (c), (d) and 5349(a) of this title.

EFFECTIVE DATE

Section 15(a) of Pub. L. 92–392 provided that: "The provisions of this Act [enacting this subchapter and section 5550 of this title, amending sections 2105(c)(1), 5337, 5541(2)(xi), 5544(a), 5548, 6101(a)(1), 7154(b), and 8704(d)(2) of this title, and sections 60a–1 and 60a–2 of title 2, repealing section 6102 of this title, and enacting provisions set out as notes under sections 5341 and 5343 of this title 8] are effective on the first day of the first applicable pay period which begins on or after the ninetieth day after the date of enactment of this Act [Aug. 19, 1972], except that, in the case of those employees referred to in section 5342(a)(2) (B) and (C) of title 5, United States Code (as amended by the first section of this Act), such provisions are effective on the first day of the first applicable pay period which begins on or after the one hundred and eightieth day after such date of enactment or on such earlier date (not earlier than the ninetieth day after such date of enactment) as the Civil Service Commission may prescribe. Notwithstanding the provisions of this subsection, section 5343(e)(1) (D) and (E) and (e)(2)(C), as enacted by the first section of this Act, shall not be effective until the first day of the first pay period commencing after (1) the date on which the President ceases to exercise his authority under the Economic Stabilization Act of 1970 [set out as note under section 1904 of Title 12] to stabilize wages and salaries, or (2) April 30, 1973, whichever occurs first."

REPEALS

Section 13 of Pub. L. 92–392 provided that:

"(a) All laws or parts of laws inconsistent with this Act [enacting this subchapter and section 5550 of this title, amending sections 2105(c)(1), 5337, 5541(2)(xi), 5544(a), 5548, 6101(a)(1), 7154(b), and 8704(d)(2) of this title, repealing section 6102 of this title, and enacting provisions set out as notes under sections 5341 and 5343 of this title and section 60a of Title 2] are hereby repealed to the extent of such inconsistency.

"(b) Subsection (a) of this section does not repeal or otherwise affect section 5102(d) of title 5, United States Code, section 305 of title 44 of such Code, or the provisions contained in section 180 of title 31, United States Code."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 41 section 351.

§ 5342. Definitions; application.

(a) For the purpose of this subchapter—

(1) "agency" means an Executive agency; but does not include—

(A) a Government controlled corporation;

(B) the Tennessee Valley Authority;

(C) the Alaska Railroad;

(D) the Virgin Islands Corporation;

(E) the Atomic Energy Commission;

(F) the Central Intelligence Agency;

(G) the Panama Canal Company;

(H) the National Security Agency, Department of Defense; or

(I) the Bureau of Engraving and Printing, except for the purposes of section 5349 of this title;

(2) "prevailing rate employee" means—

(A) an individual employed in or under an agency in a recognized trade or craft, or other skilled mechanical craft, or in an unskilled, semiskilled, or skilled manual labor occupation, and any other individual, including a foreman and a supervisor, in a position having trade, craft, or laboring experience and knowledge as the paramount requirement;

(B) an employee of a nonappropriated fund instrumentality described by section 2105(c) of this title who is employed in a recognized trade or craft, or other skilled mechanical craft, or in an unskilled, semiskilled, or skilled manual labor occupation, and any other individual, including a foreman and a supervisor, in a position having trade, craft, or laboring experience and knowledge as the paramount requirement; and

(C) an employee of the Veterans' Canteen Service, Veterans' Administration, excepted from chapter 51 of this title by section 5102(c)(14) of this title who is employed in a recognized trade or craft, or other skilled mechanical craft, or in an unskilled, semiskilled, or skilled manual labor occupation, and any other individual, including a foreman and a supervisor, in a position having trade, craft, or labor experience and knowledge as the paramount requirement; and

(3) "position" means the work, consisting of duties and responsibilities, assignable to a prevailing rate employee.

(b)(1) Except as provided by paragraphs (2) and (3) of this subsection, this subchapter applies to all prevailing rate employees and positions in or under an agency.

(2) This subchapter does not apply to employees and positions described by section 5102(c) of this title other than by—

(A) paragraph (7) of that section to the extent that such paragraph (7) applies to employees and positions other than employees and positions of the Bureau of Engraving and Printing; and

(B) paragraph (14) of that section.

(3) This subchapter, except section 5348, does not apply to officers and members of crews of vessels excepted from chapter 51 of this title by section 5102(c)(8) of this title.

(c) Each prevailing rate employee employed within any of the several States or the District of Columbia shall be a United States citizen or a bona fide resident of one of the several States or the District of Columbia unless the Secretary of Labor certifies that no United States citizen or bona fide resident of one of the several States or the District of Columbia is available to fill the particular position. (Added Pub. L. 92–392, § 1(a), Aug. 19, 1972, 86 Stat. 564.)

CODIFICATION

A prior section 5342, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 471, provided for crews of vessels and is now covered by section 5348(a), (b) of this title.

EFFECTIVE DATE

Section effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, except that in the case of employees referred to in subsec. (a)(2)(B) and (C) section effective on first day of first applicable pay period beginning on or after the 180th day after Aug. 19, 1972, or on such earlier date (not earlier than 90th day after Aug. 19, 1972) as Civil Service Commission may prescribe, see section 15(a) of Pub. L. 92–392, set out as a note under section 5341 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5343, 5550 of this title.

§ 5343. Prevailing rate determinations; wage schedules; night differentials

(a) The pay of prevailing rate employees shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates. Subject to section 213(f) of title 29, the rates may not be less than the appropriate rates provided by section 206(a)(1) of title 29. To carry out this subsection—

(1) the Civil Service Commission shall define, as appropriate—

(A) with respect to prevailing rate employees other than prevailing rate employees under paragraphs (B) and (C) of section 5342(a)(2) of this title, the boundaries of—

(i) individual local wage areas for prevailing rate employees having regular wage schedules and rates; and

(ii) wage areas for prevailing rate employees having special wage schedules and rates;

(B) with respect to prevailing rate employees under paragraphs (B) and (C) of section 5342(a)(2) of this title, the boundaries of—

(i) individual local wage areas for prevailing rate employees under such paragraphs having regular wage schedules and rates (but such boundaries shall shall not extend beyond the immediate locality in which the particular prevailing rate employees are employed); and

(ii) wage areas for prevailing rate employees under such paragraphs having special wage schedules and rates;

(2) the Civil Service Commission shall designate a lead agency for each wage area;

(3) subject to paragraph (5) of this subsection, and subsections (c)(1)–(3) and (d) of this section, a lead agency shall conduct wage surveys, analyze wage survey data, and develop and establish appropriate wage schedules and rates for prevailing rate employees;

(4) the head of each agency having prevailing rate employees in a wage area shall apply, to the prevailing rate employees of that agency in that area, the wage schedules and rates established by the lead agency, or by the Civil Service Commission, as appropriate, for prevailing rate employees in that area; and

(5) the Civil Service Commission shall establish wage schedules and rates for prevailing rate employees who are United States citizens employed in any area which is outside the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

(b) The Civil Service Commission shall schedule full-scale wage surveys every 2 years and shall schedule interim surveys to be conducted between each 2 consecutive full-scale wage surveys. The Commission may schedule more frequent surveys when conditions so suggest.

(c) The Civil Service Commission, by regulation, shall prescribe practices and procedures for conducting wage surveys, analyzing wage survey data, developing and establishing wage schedules and rates, and administering the prevailing rate system. The regulations shall provide—

(1) that, subject to subsection (d) of this section, wages surveyed be those paid by private employers in the wage area for similar work performed by regular full-time employees, except that, for prevailing rate employees under paragraphs (B) and (C) of section 5342(a)(2) of this title, the wages surveyed shall be those paid by private employers to full-time employees in a representative number of retail, wholesale, service, and recreational establishments similar to those in which such prevailing rate employees are employed;

(2) for participation at all levels by representatives of organizations accorded recognition as the representatives of prevailing rate employees in every phase of providing an equitable system for fixing and adjusting the rates of pay for prevailing rate employees, including the planning of the surveys, the drafting of specifications, the selection of data collectors, the collection and the analysis of the data, and the submission or recommendations to the head of

the lead agency for wage schedules and rates and for special wage schedules and rates where appropriate;

(3) for requirements for the accomplishment of wage surveys and for the development of wage schedules and rates for prevailing rate employees, including, but not limited to—

(A) nonsupervisory and supervisory prevailing rate employees paid under regular wage schedules and rates;

(B) nonsupervisory and supervisory prevailing rate employees paid under special wage schedules and rates; and

(C) nonsupervisory and supervisory prevailing rate employees described under paragraphs (B) and (C) of section 5342(a)(2) of this title;

(4) for proper differentials, as determined by the Commission, for duty involving unusually severe working conditions or unusually severe hazards;

(5) rules governing the administration of pay for individual employees on appointment, transfer, promotion, demotion, and other similar changes in employment status; and

(6) for a continuing program of maintenance and improvement designed to keep the prevailing rate system fully abreast of changing conditions, practices, and techniques both in and out of the Government of the United States.

(d)(1) A lead agency, in making a wage survey, shall determine whether there exists in the local wage area a number of comparable positions in private industry sufficient to establish wage schedules and rates for the principal types of positions for which the survey is made. The determination shall be in writing and shall take into consideration all relevant evidence, including evidence submitted by employee organizations recognized as representative of prevailing rate employees in that area.

(2) When a lead agency determines that there is a number of comparable positions in private industry insufficient to establish the wage schedules and rates, such agency shall establish those schedules and rates on the basis of—

(A) local private industry rates; and

(B) rates paid for comparable positions in private industry in the nearest wage area that such agency determines is most similar in the nature of its population, employment, manpower, and industry to the local wage area for which the wage survey is being made.

(e)(1) Each grade of a regular wage schedule for nonsupervisor prevailing rate employees shall have 5 steps with—

(A) the first step at 96 percent of the prevailing rate;

(B) the second step at 100 percent of the prevailing rate;

(C) the third step at 104 percent of the prevailing rate;

(D) the fourth step at 108 percent of the prevailing rate; and

(E) the fifth step at 112 percent of the prevailing rate.

(2) A prevailing rate employee under a regular wage schedule who has a work performance rating of satisfactory or better, as determined by the head of the agency, shall advance automatically to the next higher step within the grade at the beginning of the first applicable pay period following his completion of—

(A) 26 calendar weeks of service in step 1;

(B) 78 calendar weeks of service in step 2; and

(C) 104 calendar weeks of service in each of steps 3 and 4.

(3) Under regulations prescribed by the Civil Service Commission, the benefits of successive step increases shall be preserved for prevailing rate employees under a regular wage schedule whose continuous service is interrupted in the public interest by service with the armed forces or by service in essential non-Government civilian employment during a period of war or national emergency.

(4) Supervisory wage schedules and special wage schedules authorized under subsection (c)(3) of this section may have single or multiple rates or steps according to prevailing practices in the industry on which the schedule is based.

(f) A prevailing rate employee is entitled to pay at his scheduled rate plus a night differential—

(1) amounting to 7½ percent of that scheduled rate for regularly scheduled nonovertime work a majority of the hours of which occur between 3 p.m. and midnight; and

(2) amounting to 10 percent of that scheduled rate for regularly scheduled nonovertime work a majority of the hours of which occur between 11 p.m. and 8 a.m.

A night differential under this subsection is a part of basic pay. (Added Pub. L. 92–392, § 1(a), Aug. 19, 1972, 86 Stat. 566.)

CODIFICATION

A prior section 5343, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 471, related to effective date of pay increases and is now covered by section 5344(a) of this title.

PRIOR PROVISIONS

Provisions similar to those comprising part of first sentence of subsec. (c) and subsec. (d) of this section were contained in Pub. L. 90–560, § 4, Oct. 12, 1968, 82 Stat. 997 (formerly classified to sections 5341(c) of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92–392.

EFFECTIVE DATE

Section other than subsec. (e)(1)(D), (E), (2)(C) of this section effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, and such subsec. (a)(1)(D), (E), (2)(C) not effective until first day of first pay period commencing after the date on which the President ceases to exercise his authority under the Economic Stabilization Act of 1970 to stabilize wages and salaries, or Apr. 30, 1973, whichever occurs first, see section 15(a) of Pub. L. 92–392, set out as a note under section 5341 of this title.

CONVERSION RULES FOR WAGE SCHEDULE; SERVICE FOR ONE STEP INCREASE; PROHIBITION OF DECREASE IN BASIC PAY RATE; RETAINED PAY CONTINUED

Section 9(a) of Pub. L. 92–392 provided that:

"(1) Except as provided by this subsection, an employee's initial rate of pay on conversion to a wage schedule established pursuant to the amendments made by this Act [see Effective Date note under section 5341 of this title] shall be determined under conversion rules prescribed by the Civil Service Commission. Service by an

employee in a grade of a wage schedule performed before the effective date of the conversion of the employee to a wage schedule established pursuant to the amendments made by this Act shall be counted toward not to exceed one step increase under the time in step provisions of section 5343(e)(2) of title 5, United States Code, as amended by the first section of this Act [subsec. (e)(2) of this section].

"(2) In the case of any employee described in section 2105(c), 5102(c)(7), (8), or (14) of title 5, United States Code, who is in the service as such an employee immediately before the effective date, with respect to him, of the amendments made by this Act [see Effective Date note under section 5341 of this title], such amendments shall not be construed to decrease his rate of basic pay in effect immediately before the date [see Effective Date note under section 5341 of this title] on which such amendments become effective with respect to him. In addition, if an employee is receiving retained pay by virtue of law or agency policy immediately before the date on which the first wage schedule applicable to him under this Act is effective, he shall continue to retain that pay in accordance with the specific instructions under which the retained pay was granted until he leaves his position or until he becomes entitled to a higher rate."

LABOR CONTRACTS PERTAINING TO WAGES, TERMS AND CONDITIONS OF EMPLOYMENT, AND OTHER EMPLOYMENT BENEFITS

Section 9(b) of Pub. L. 92–392 provided that:

"The amendments made by this Act [enacting this subchapter and section 5550 of this title, amending sections 2105(c)(1), 5337, 5541(2)(xi), 5544(a), 5548, 6101(a)(1), 6101(a)(1), 7154(b), and 8704(d)(2) of this title, repealing section 6102 of this title, and enacting provisions set out as notes under sections 5341 and 5343 of this title and section 60a of Title 2] shall not be construed to—

"(1) abrogate, modify, or otherwise affect in any way the provisions of any contract in effect on the date of enactment of this Act [Aug. 19, 1972] pertaining to the wages, the terms and conditions of employment, and other employment benefits, or any of the foregoing matters, for Government prevailing rate employees and resulting from negotiations between Government agencies and organizations of Government employees;

"(2) nullify, curtail, or otherwise impair in any way the right of any party to such contract to enter into negotiations after the date of enactment of this Act [Aug. 19, 1972] for the renewal, extension, modification, or improvement of the provisions of such contract or for the replacement of such contract with a new contract; or

"(3) nullify, change, or otherwise affect in any way after such date of enactment [Aug. 19, 1972] any agreement, arrangement, or understanding in effect on such date [Aug. 19, 1972] with respect to the various items of subject matter of the negotiations on which any such contract in effect on such date [Aug. 19, 1972] is based or prevent the inclusion of such items of subject matter in connection with the renegotiation of any such contract, or the replacement of such contract with a new contract, after such date [Aug. 19, 1972]."

WAGE SURVEY

Section 15(b) of Pub. L. 92–392 provided that: "A wage survey conducted by an agency before the effective date (with respect to employees covered by that wage survey) of this Act [see note under section 5341 of this title], for a wage schedule which becomes effective after that effective date [Aug 19, 1972], is deemed to meet the requirement in this Act for a survey by a lead agency."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5544, 6101 of this title.

§ 5344. Effective date of wage increase; retroactive pay.

(a) Each increase in rates of basic pay granted, pursuant to a wage survey, to prevailing rate employees is effective not later than the first day of the first pay period which begins on or after the 45th day, excluding Saturdays and Sundays, following the date the wage survey is ordered to be made.

(b) Retroactive pay is payable by reason of an increase in rates of basic pay referred to in subsection (a) of this section only when—

(1) the individual is in the service of the Government of the United States, including service in the armed forces, or the government of the District of Columbia on the date of the issuance of the order granting the increase; or

(2) the individual retired or died during the period beginning on the effective date of the increase and ending on the date of issuance of the order granting the increase, and only for services performed during that period.

For the purpose of this subsection, service in the armed forces includes the period provided by statute for the mandatory restoration of the individual to a position in or under the Government of the United States or the government of the District of Columbia after he is relieved from training and service in the armed forces or discharged from hospitalization following that training and service. (Added Pub. L. 92–392, § 1(a), Aug. 19, 1972, 86 Stat. 568.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were contained in Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 471 (formerly classified to section 5343 of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92–392.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5349, 8704 of this title.

§ 5345. Retained rate of pay on reduction in grade or reassignment.

(a) Under regulations prescribed by the Civil Service Commision, and subject to the limitation in subsection (b) of this section, a prevailing rate employee—

(1) who is reduced in grade or reassigned to a wage schedule position having an established maximum scheduled rate of pay which is less than the employee's then existing scheduled rate of pay;

(2) who holds a career or a career-conditional appointment in the competitive service, or an appointment of equivalent tenure in the excepted service;

(3) whose reduction in grade or reassignment is not (A) caused by a demotion for personal cause, (B) at his request, (C) effected in a reduction in force due to lack of funds or curtailment of work, or (D) with respect to a temporary promotion, a condition of the temporary promotion to a higher grade;

(4) who, for 2 continuous years immediately before the reduction in grade or reassignment, served (A) in the same agency and (B) in a grade or grades higher than the grade to which demoted; and

(5) whose work performance during the 2-year period is satisfactory or better;

is entitled to basic pay at the scheduled rate to which he was entitled immediately before the reduction in grade or reassignment (including each increase in scheduled rate of pay granted pursuant to a wage

survey) for a period of 2 years from the effective date of the reduction in grade or reassignment, so long as he—

(A) continues in the same agency without a break in service of one workday or more;

(B) is not entitled to a higher scheduled rate of pay by operation of this subchapter; and

(C) is not demoted or reassigned (i) for personal cause, (ii) at his request, or (iii) in a reduction in force due to a lack of funds or curtailment of work.

(b) The scheduled rate of pay to which a prevailing rate employee is entitled under subsection (a) of this section with respect to each reduction in grade or reassignment to which that subsection applies may not exceed the sum of—

(1) the minimum scheduled rate of the grade to which he is reduced or reassigned under each reduction in grade or reassignment to which that subsection applies (including each increase in scheduled rate of pay granted pursuant to a wage survey); and

(2) the difference between his scheduled rate immediately before the first reduction in grade or reassignment to which that subsection applies (including each increase in scheduled rate of pay granted pursuant to a wage survey) and the minimum scheduled rate of that grade which is three grades lower than the grade from which he was reduced or reassigned under the first of the reductions in grade or reassignment (including each increase in the scheduled rate of pay granted pursuant to a wage survey).

(c) Under regulations prescribed by the Commission, a prevailing rate employee who is reduced in grade or reassigned to a wage schedule position from another local wage area, or from another wage schedule, or from a position not subject to this subchapter, is entitled to a retained scheduled rate of pay.

(d) The Commission may prescribe regulations governing the retention of the scheduled rate of pay of an employee who together with his position is brought under this subchapter. If an employee so entitled to a retained rate under these regulations is later demoted to a position under this subchapter, his scheduled rate of pay is determined under subsections (a) and (b) of this section. For the purpose of those subsections, service in the position which was brought under this subchapter is deemed service under this subchapter. (Added Pub. L. 92–392, § 1(a), Aug. 19, 1972, 86 Stat. 569.)

CODIFICATION

A prior section 5345, added Pub. L. 90–206, title II, § 223(a), Dec. 16, 1967, 81 Stat. 641, provided for position classification appeals and is now covered by section 5346 (c) of this title.

EFFECTIVE DATE

Section effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub L. 92–392, set out as a note under section 5341 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5349 of this title.

§ 5346. Job grading system.

(a) The Civil Service Commission, after consulting with the agencies and with employee organizations, shall establish and maintain a job grading system for positions to which this subchapter applies. In carrying out this subsection, the Commission shall—

(1) establish the basic occupational alinement and grade structure or structures for the job grading system;

(2) establish and define individual occupations and the boundaries of each occupation;

(3) establish job titles within occupations;

(4) develop and publish job grading standards; and

(5) provide a method to assure consistency in the application of job standards.

(b) The Commission, from time to time, shall review such numbers of positions in each agency as will enable the Commission to determine whether the agency is placing positions in occupations and grades in conformance with or consistently with published job standards. When the Commission finds that a position is not placed in its proper occupation and grade in conformance with published standards or that a position for which there is no published standard is not placed in the occupation and grade consistently with published standards, it shall, after consultation with appropriate officials of the agency concerned, place the position in its appropriate occupation and grade and shall certify this action to the agency. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials.

(c) On application, made in accordance with regulations prescribed by the Commission, by a prevailing rate employe for the review of the action of an employing agency in placing his position in an occupation and grade for pay purposes, the Commission shall—

(1) ascertain currently the facts as to the duties, responsibilities, and qualification requirements of the position;

(2) decide whether the position has been placed in the proper occupation and grade; and

(3) approve, disapprove, or modify, in accordance with its decision, the action of the employing agency in placing the position in an occupation and grade.

The Commission shall certify to the agency concerned its action under paragraph (3) of this subsection. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials. (Pub. L. 89–554, § 5346, formerly § 5345, as added Pub. L. 90–206, title II, § 223(a), Dec. 16, 1967, 81 Stat. 641, renumbered and amended Pub. L. 92–392, § 1(a), Aug. 19, 1972, 86 Stat. 570.)

AMENDMENTS

1972—Subsecs. (a), (b). Pub. L. 92–392 added subsecs. (a) and (b).

Subsec. (c). Pub. L. 92–392 designated existing provisions as subsec. (c) and substituted in introductory text "Commission", "a prevailing rate of employee" and "in placing his position in an occupation and grade" for "Civil Service Commission", "an employee subject to section 5341(a) of this title" and "in classifying his position", in par. (2) "placed in the proper occupation and grade" for "properly classified", in par. (3) "in placing the position in an occupation and grade" for "in classifying the position" and in last sentence "subsection" for "section".

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (c) of this section were contained in Pub. L. 90–206, title II, § 223(a), Dec. 16, 1967, 81 Stat. 641 (formerly classified to section 5345 of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92–392.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as a note under section 5341 of this title.

§ 5347. Federal Prevailing Rate Advisory Committee.

(a) There is established a Federal Prevailing Rate Advisory Committee composed of—

(1) the Chairman, who shall not hold any other office or position in the Government of the United States or the government of the District of Columbia, and who shall be appointed by the Chairman of the Civil Service Commission for a 4-year term;

(2) one member from the Office of the Secretary of Defense, designated by the Secretary of Defense;

(3) two members from the military departments, designated by the Chairman of the Civil Service Commission;

(4) one member, designated by the Chairman of the Civil Service Commission from time to time from an agency (other than the Department of Defense, a military department, and the Civil Service Commission);

(5) an employee of the Civil Service Commission, designated by the Chairman of the Civil Service Commission; and

(6) five members, designated by the Chairman of the Civil Service Commision, from among the employee organizations representing, under exclusive recognition of the Government of the United States, the largest numbers of prevailing rate employees.

(b) In designating members from among employee organizations under subsection (a)(6) of this section, the Chairman of the Civil Service Commission shall designate, as nearly as practicable, a number of members from a particular employee organization in the same proportion to the total number of employee representatives appointed to the Committee under subsection (a)(6) of this section as the number of prevailing rate employees represented by such organization is to the total number of prevailing rate employees. However, there shall not be more than two members from any one employee organization nor more than four members from a single council, federation, alliance, association, or affiliation of employee organizations.

(c) Every 2 years the Chairman of the Civil Service Commission shall review employee organization representation to determine adequate or proportional representation under the guidelines of subsection (b) of this section.

(d) The members from the employee organizations serve at the pleasure of the Chairman of the Civil Service Commission.

(e) The Committee shall study the prevailing rate system and other matters pertinent to the establishment of prevailing rates under this subchapter and, from time to time, advise the Civil Service Commission thereon. Conclusions and recommendations of the Committee shall be formulated by majority vote. The Chairman of the Committee may vote only to break a tie vote of the Committee. The Committee shall make an annual report to the Commission and the President for transmittal to Congress, including recommendations and other matters considered appropriate. Any member of the Committee may include in the annual report recommendations and other matters he considers appropriate.

(f) The Committee shall meet at the call of the Chairman. However, a special meeting shall be called by the Chairman if 5 members make a written request to the Chairman to call a special meeting to consider matters within the purview of the Committee.

(g) Members of the Committee described in paragraphs (2)–(5) of subsection (a) of this section serve without additional pay. The Chairman is entitled to a rate of pay equal to the maximum rate currently paid, from time to time, under the General Schedule. Members who represent employee organizations are not entitled to pay from the Government of the United States for services rendered to the Committee.

(h) The Civil Service Commission shall provide such clerical and professional personnel as the Chairman of the Committee considers appropriate and necessary to carry out its functions under this subchapter. Such personnel shall be responsible to the Chairman of the Committee. (Added Pub. L. 92–392, § 1(a), Aug. 19, 1972, 86 Stat. 571.)

EFFECTIVE DATE

Section effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as a note under section 5341 of this title.

§ 5348. Crews of vessels.

(a) Except as provided by subsections (b) and (c) of this section, the pay of officers and members of crews of vessels excepted from chapter 51 of this title by section 5102(c)(3) of this title shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and practices in the maritime industry.

(b) Vessel employees of the Panama Canal Company may be paid in accordance with the wage practices of the maritime industry.

(c) Vessel employees in an area where inadequate maritime industry practice exists and vessel employees of the Corps of Engineers shall have their pay fixed and adjusted under the provisions of this subchapter other than this section, as appropriate. (Pub. L. 89–544, Sept. 6, 1966, 80 Stat. 471, § 5384, formerly § 5342, renumbered and amended Pub. L. 92–393, § 1(a), Aug. 19, 1972, 86 Stat. 572.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–392 inserted reference to subsection (c) of this section.

Subsec. (c). Pub. L. 92–392 added subsec. (c).

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) and (b) of this section were contained in Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 471 (formerly classified to section 5342 of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92–392.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5342 of this title.

§ 5349. Prevailing rate employees; legislative, judicial, Bureau of Engraving and Printing, and government of the District of Columbia.

(a) The pay of employees, described under section 5102(c)(7) of this title, in the Administrative Office of the United States Courts, the Library of Congress, the Botanic Garden, the Government Printing Office, the Office of the Architect of the Capitol, the Bureau of Engraving and Printing, and the government of the District of Columbia, shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and in accordance with such provisions of this subchapter, including the provisions of section 5344, relating to retroactive pay, and section 5345, relating to retention of pay, as the pay-fixing authority of each such agency may determine. Subject to section 213(f) of title 29, the rates may not be less than the appropriate rates provided for by section 206(a)(1) of title 29. If the pay-fixing authority concerned determines that the provisions of section 5345 of this title should apply to any employee under his jurisdiction, then the employee concerned shall be deemed to have satisfied the requirements of paragraph (2) of section 5345(a) of this title if the tenure of his appointment is substantially equivalent to the tenure of any appointment referred to in such paragraph.

(b) Subsection (a) of this section does not modify or otherwise affect section 5102(d) of this title, section 305 of title 44, and section 180 of title 31. (Added Pub. L. 92-392, § 1(a), Aug. 19, 1972, 86 Stat. 572.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were contained in Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 471; Pub. L. 90-83, § 1(97), Sept. 11, 1967, 81 Stat. 220 (formerly classified to section 5341(a) of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92-392.

EFFECTIVE DATE

Section effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5342, 5544, 6101 8704 of this title.

SUBCHAPTER V.—STUDENT-EMPLOYEES

§ 5352. Stipends.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 32-334 of the District of Columbia Code.

§ 5353. Quarters, subsistence, and laundry.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 32-334 of the District of Columbia Code.

SUBCHAPTER VI.—MISCELLANEOUS PROVISIONS

§ 5362. Hearing examiners.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 661; title 42 section 2000e-4.

§ 5365. Police force of National Zoological Park.

The Secretary of the Smithsonian Institution shall fix the per annum rates of basic pay of positions on the police force of the National Zoological Park in accordance with the following provisions:

(1) Private—not more than the rate for GS-7, Step 5;

(2) Sergeant—not more than the rate for GS-8, Step 5;

(3) Lieutenant—not more than the rate for GS-9, Step 5;

(4) Captain—not more than the rate for GS-10, Step 5.

(As amended Pub. L. 94-183, § 2(20), Dec. 31, 1975, 89 Stat. 1058.)

AMENDMENTS

1975—Pub. L. 94-183 deleted "(a)" at the beginning of the section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5102 of this title; title 40 section 193n.

Chapter 55.—PAY ADMINISTRATION

SUBCHAPTER II.—WITHHOLDING PAY

Sec.
5520. Withholding of city income or employment taxes.

SUBCHAPTER V.—PREMIUM PAY

5545. Night, standby, irregular, and hazardous duty differential.
5550. Pay for Sunday and overtime work; employees of nonappropriated fund instrumentalities.

SUBCHAPTER VIII.—SETTLEMENT OF ACCOUNTS

5584. Claims for overpayment of pay and allowances, other than travel and transportation expenses and allowances and relocation expenses.

AMENDMENTS

1975—Pub. L. 94-183, § 2(24), Dec. 31, 1975, 89 Stat. 1058, deleted "Sunday," following "Night," in item 5545.

1974—Pub. L. 93-340, § 1(b), July 10, 1974, 88 Stat. 294, added item 5520.

1972—Pub. L. 92-453, § 3(2), Oct. 2, 1972, 86 Stat. 760, substituted "overpayment of pay and allowances, other than travel and transportation expenses and allowances and relocation expenses" for "overpayment of pay" in item 5584.

Pub. L. 92-392, § 10(b), Aug. 19, 1972, 86 Stat. 574, added item 5550.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 5504. Biweekly pay periods; computation of pay.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 4108; title 40 sections 166b-1d, 166b-1e.

SUBCHAPTER II.—WITHHOLDING PAY

§ 5512. Withholding pay; individuals in arrears.

* * * * *

(b) When pay is withheld under subsection (a) of this section, the General Accounting Office, on request of the individual, his agent, or his attorney,

shall report immediately to the Attorney General the balance due; and the Attorney General, within 60 days, shall order suit to be commenced against the individual. (As amended Pub. L. 92–310, title II, § 202, June 6, 1972, 86 Stat. 202.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–310 eliminated "and his sureties" which followed "against the individual."

SECTION REFERRED TO OTHER SECTIONS

This section is referred to in title 37 section 1007.

§ 5514. Installment deduction for indebtedness because of erroneous payment.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2 redesignated the Bureau of the Budget as the Office of Management and Budget. See Office of Management and Budget note set out under this section in the main volume.

DELEGATION OF FUNCTIONS

Authority of the President under subsec. (b) of this section to approve regulations prescribed by the head of each agency to carry out this section and section 581d of Title 31, Money and Finance, relating to installment deductions from pay for indebtedness because of erroneous payment, delegated to the United States Civil Service Commission, see section 8(1) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 5516. Withholding District of Columbia income taxes.

CROSS REFERENCE

Withholding of District of Columbia income taxes by Secretary of Senate, see section 60c–3 of Title 2, The Congress.

Withholding of District of Columbia income taxes by Clerk and Sergeant at Arms of the House of Representatives, see sections 60e–1a and 60e–1b of Title 2, The Congress.

§ 5517. Withholding State income taxes.

CROSS REFERENCE

Withholding of State income taxes by Secretary of Senate, see section 60c–3 of Title 2, The Congress.

Withholding of State income taxes by Clerk and Sergeant at Arms of the House of Representatives, see sections 60e–1a and 60e–1b of Title 2, The Congress.

Withholding of State income taxes by Architect of the Capitol, see section 166b–5 of Title 40, Public Buildings, Property, and Works.

§ 5520. Withholding of city income or employment taxes.

(a) When a city ordinance—

(1) provides for the collection of a tax by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the city; and

(2) imposes the duty to withhold generally on the payment of compensation earned within the jurisdiction of the city in the case of employees whose regular place of employment is within such jurisdiction;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the city within 120 days of a request for agreement by the proper city official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the city ordinance in the case of employees of the agency who are subject to the tax and whose regular place of Federal employment is within the jurisdiction of the city with which the agreement is made. The agreement may not apply to pay for service as a member of the Armed Forces. The agreement may not permit withholding of a city tax from the pay of an employee who is not a resident of the State in which that city is located unless the employee consents to the withholding.

(b) This section does not give the consent of the United States to the application of an ordinance which imposes more burdensome requirements on the United States than on other employers or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a city for services performed in withholding city income or employment taxes from the pay of employees of the agency.

(c) For the purpose of this section—

(1) "city" means a city which is duly incorporated under the laws of a State and within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government; and

(2) "agency" means—

(A) an Executive agency;

(B) the judicial branch; and

(C) the United States Postal Service.

(Added Pub. L. 93–340, § 1(a), July 10, 1974, 88 Stat. 294.)

EFFECTIVE DATE

Section 3 of Pub. L. 93–340 provided that: "This section shall become effective on the date of enactment of this Act [July 10, 1974]. The provisions of the first section and section 2 of this Act [enacting this section and amending section 410(b)(1) of Title 39, Postal Service] shall become effective on the ninetieth day following the date of enactment [July 10, 1974]."

EXECUTIVE ORDER NO. 11833

Ex. Ord. No. 11833, Jan. 13, 1975, 40 F.R. 2673, formerly set out as a note under this section, which related to the withholding of city income or employment taxes by federal agencies, was revoked by Ex. Ord. No. 11863, June 12, 1975, 40 F.R. 25413, set out as a note under this section.

EX. ORD. NO. 11863. WITHHOLDING OF CITY INCOME OR EMPLOYMENT TAXES BY FEDERAL AGENCIES

Ex. Ord. No. 11863, June 12, 1975, 40 F.R. 25431, provided:

By virtue of the authority vested in me by Section 5520 of Title 5 of the United States Code (as added by Public Law 93–340, Act of July 10, 1974, 88 Stat. 294), Section 301 of Title 3 of the United States Code, and as President of the United States, I hereby revoke Executive Order No. 11833 of January 13, 1975, and prescribe the following regulations to govern agreements between the Secretary of the Treasury and any city for the withholding of city income or employment taxes from the compensation of Federal employees:

SECTION 1. As used in this Order or in agreements—

(a) The term "agency" means (1) an Executive agency as defined in Section 105 of Title 5 of the United States Code, (2) the judicial branch, and (3) the United States Postal Service.

(b) The term "Armed Forces" includes all regular and reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(c) The term "employees" as applied to employees of an agency includes officers and means individuals who are (1) appointed by a Federal officer or employee acting in his official capacity, (2) engaged in the performance of a Federal function under authority of law or an Executive act,

and (3) subject to the supervision of a Federal officer or employee in the performance of the duties of his position. The term does not include retired personnel, pensioners, annuitants, or similar beneficiaries of the Federal Government who are not performing active service, or persons receiving remuneration for services on a contract-fee basis.

(d) The term "city" means a city which is duly incorporated under the laws of a State and has within its political boundaries, on the date of the agreement, 500 or more persons who are regularly employed by all agencies of the Federal Government.

(e) The term "city income or employment taxes" means any form of tax for which, under a city ordinance, collection is provided by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the city. Whether the tax is described as an income, wage, payroll, earnings, occupational license, or otherwise, is immaterial.

(f) The term "regular place of Federal employment" means the official duty station, or other place, where an employee actually performs his services, irrespective of his residence. If the employee's services are performed in a travel or temporary duty status, his "regular place of Federal employment" will be the official duty station, or other place. to which he is expected to proceed when his travel or temporary duty status ends.

(g) The term "compensation" as aplied to employees of an agency means "wages" as defined in Section 3401(a) of the Internal Revenue Code of 1954 and regulations thereunder.

SEC. 2. Each agreement shall be (a) consistent with the provisions of Section 5520 of Title 5 of the United States Code and the rules and regulations (including this Executive Order) issued thereunder, and (b) subject to amendment of any such provisions, including amendments made after the effective date of the agreement.

SEC. 3. Each agreement shall provide (a) when tax withholding shall begin, (b) that the head of an agency may rely on an employee's withholding certificate in withholding city taxes, (c) that the method for calculating the amount to be withheld shall produce approximately the tax required to be withheld by the city ordinance, and (d) that procedures for the withholding, filing of returns, and payment of the withheld taxes to the city shall conform to the usual fiscal practices of agencies. No agreement shall require the collection by an agency of delinquent tax liabilities of an employee.

SEC. 4. The head of each agency shall designate, or provide for the designation of, the officers or employees whose duty it shall be to withhold taxes, file required returns, and direct the payment of the taxes withheld, in accordance with this Order, any rules or regulations prescribed by the Secretary of the Treasury, and the applicable agreement.

SEC. 5. Nothing in this Order, in rules or regulations issued hereunder, or in any agreement pursuant thereto, shall be considered an agreement by the United States to the application of a city ordinance which imposes more burdensome requirements on the United States than on other employers, or which subjects the United States or its employees to a penalty or liability.

SEC. 6. I hereby delegate to the Secretary of the Treasury authority to prescribe additional rules and regulations to implement Section 5520 of Title 5 of the United States Code and this Order.

GERALD R. FORD.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39, section 410.

SUBCHAPTER IV.—DUAL PAY AND DUAL EMPLOYMENT

§ 5531. Definitions.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31–1603, 31–1623 of the District of Columbia Code.

§ 5532. Employment of retired officers of the uniformed services; reduction in retired or retirement pay; exceptions.

CROSS REFERENCES

Restrictions on performance of civil functions by officers on the active list of the Regular Army, Regular Navy, Regular Marine Corps, or Regular Coast Guard, see section 973 of title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8116 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 2–1226, 6–1202, 31–1603, 31–1623 of the District of Columbia Code.

§ 5533. Dual pay from more than one position; limitations; exceptions.

* * * * *

(c)(1) Unless otherwise authorized by law and except as otherwise provided by paragraph (2) or (4) of this subsection, appropriated funds are not available for payment to an individual of pay from more than one position if the pay of one of the positions is paid by the Secretary of the Senate or the Clerk of the House of Representatives, or one of the positions is under the Office of the Architect of the Capitol, and if the aggregate gross pay from the positions exceeds $7,724 a year.

* * * * *

(4) Paragraph (1) of this subsection does not apply to pay on a when-actually-employed basis received from more than one consultant or expert position if the pay is not received for the same day.

(d) Subsection (a) of this section does not apply to—

* * * * *

(7) pay within the purview of any of the following statutes:

(A) section 162 of title 2;

(B) section 23(b) of title 13;

(C) section 327 of title 15;

(D) section 907 of title 20;

(E) section 873 of title 33;

(F) section 631 or 631a of title 31, District of Columbia Code; or

(G) section 102 of title 2, Canal Zone Code.

(e)(1) This section does not apply to an individual employed under sections 174j–1 to 174j–7 or 174k of title 40.

(2) Subsection (c) of this section does not apply to pay received by a teacher of the public schools of the District of Columbia for employment in a position during the summer vacation period. (As amended Pub. L. 93–140, § 23, Oct. 26, 1973, 87 Stat. 508; Pub. L. 93–145, § 101, Nov. 1, 1973, 87 Stat. 532; Pub. L. 94–183, § 2(21), Dec. 31, 1975, 89 Stat. 1058.)

AMENDMENTS

1975—Subsec. (d)(7). Pub. L. 94–183 struck out subpar. (F), relating to section 3335 (a) or (c) of title 39, and redesignated former subpars. (G) and (H) as (F) and (G), respectively.

1973—Subsec. (c). Pub. L. 93–145 inserted reference to par. (4) in par. (1), and added par. (4).

Subsec. (e). Pub. L. 93–140 designated existing provisions as par. (1), and added par. (2).

1972 INCREASE IN COMPENSATION OF INDIVIDUALS WHOSE PAY IS DISBURSED BY THE SECRETARY OF THE SENATE.

The figure "7,724" in subsection (c)(1) of this section, deemed to refer, effective Jan. 1, 1973, to the figure "9,-

080", see section 9 of the Salary Directive of the President pro tempore of the Senate, Dec. 16, 1972, set out as a note under section 60a–1 of Title 2, The Congress.

1971 INCREASES IN COMPENSATION OF INDIVIDUALS WHOSE PAY IS DISBURSED BY THE SECRETARY OF THE SENATE

The figure "7,724" in subsection (c)(1) of this section, deemed to refer, effective Jan. 1, 1972, to the figure "8,637", see section 9 of the Salary Directive of the President pro tempore of the Senate, Dec. 23, 1971, set out as a note under section 60a–1 of Title 2, The Congress.

The figure "7,724" in subsection (c)(1) of this section, deemed to refer, effective Feb. 1, 1971, to the figure "8,187", see section 9 of the Salary Directive of the President pro tempore of the Senate, Jan. 15, 1971, set out as a note under section 60a–1 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5531 of this title; title 39, section 1001.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 1–321, 31–631, 31–631a, 31–1603, 31–1623 of the District of Columbia Code.

§ 5536. Extra pay for extra services prohibited.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3343, 5922, 5942, 5947 of this title; title 22 sections 287e–1, 291, 1131, 2389, 2513; title 31 section 546; title 39 section 1001.

SUBCHAPTER V.—PREMIUM PAY

§ 5541. Definitions.

For the purpose of this subchapter—

* * * * *

(2) "employee" means—

* * * * *

but does not include—

* * * * *

(iv) a member of the Metropolitan Police, the Fire Department of the District of Columbia, the United States Park Police, or the Executive Protective Service;

* * * * *

(xi) an employee whose pay is fixed and adjusted from time to time in accordance with prevailing rates under subchapter IV of chapter 53 of this title, or by a wage board or similar administrative authority serving the same purpose, except as provided by section 5544 of this title;

* * * * *

(As amended Pub. L. 92–392, § 4, Aug. 19, 1972, 86 Stat. 573; Pub. L. 94–183, § 2(22), Dec. 31, 1975, 89 Stat. 1058.)

AMENDMENTS

1975—Par. (2)(iv). Pub. L. 94–183 substituted "Executive Protective Service" for "White House Police".

1972—Par. (2)(xi). Pub. L. 92–392 substituted "pay" for "basic pay" and provided for determination of pay under subchapter IV of chapter 53 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as a note under section 5341 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5504, 6101 of this title.

§ 5542. Overtime rates; computation.

(a) For full-time, part-time and intermittent tours of duty, hours of work officially ordered or approved in excess of 40 hours in an administrative workweek, or (with the exception of an employee engaged in professional or technical engineering or scientific activities for whom the first 40 hours of duty in an administrative workweek is the basic workweek and an employee whose basic pay exceeds the minimum rate for GS–10 for whom the first 40 hours of duty in an administrative workweek is the basic workweek) in excess of 8 hours in a day, performed by an employee are overtime work and shall be paid for, except as otherwise provided by this subchapter, at the following rates:

* * * * *

(As amended Pub. L. 92–194, Dec. 15, 1971, 85 Stat. 648.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–194 substituted "For full-time, part-time and intermittent tours of duty, hours" for "Hours".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5543, 5545, 5546, 5547 of this title; title 15 section 278e; title 32 section 709.

§ 5543. Compensatory time off.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 278e.

§ 5544. Wage-board overtime and Sunday rates; computation.

(a) An employee whose pay is fixed and adjusted from time to time in accordance with prevailing rates under section 5343 or 5349 of this title, or by a wage board or similar administrative authority serving the same purpose, is entitled to overtime pay for overtime work in excess of 8 hours a day or 40 hours a week. However, an employee subject to this subsection who regularly is required to remain at or within the confines of his post of duty in excess of 8 hours a day in a standby or on-call status is entitled to overtime pay only for hours of duty, exclusive of eating and sleeping time, in excess of 40 a week. The overtime hourly rate of pay is computed as follows:

* * * * *

(As amended Pub. L. 92–392, § 5, Aug. 19, 1972, 86 Stat. 573.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–392 substituted "pay" for "basic pay" and provided for determination of pay under section 5343 or 5349 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as a note under section 5341 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5541, 5550 of this title; title 15 section 278e; title 32 section 709.

§ 5545. Night, standby, irregular, and hazardous duty differential.

* * * * *

(As amended Pub. L. 94–183, § 2(23), Dec. 31, 1975, 89 Stat. 1058.)

AMENDMENTS

1975—Pub. L. 94–183 struck out "Sunday," following "Night," in the section catchline.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 278e.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 8–209 of the District of Columbia Code.

§ 5546. Pay for Sunday and holiday work.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 278e.

§ 5548. Regulations.

(a) The Civil Service Commission may prescribe regulations, subject to the approval of the President, necessary for the administration of this subchapter, except section 5545(d) insofar as this subchapter affects employees in or under an Executive agency.

(b) The Commission shall prescribe regulations necessary for the administration of sections 5545(d) and 5550 of this title. (As amended Pub. L. 92–392, § 12, Aug. 19, 1972, 86 Stat. 575.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–392, § 12(a), struck out reference to section 5544 of this title.

Subsec. (b). Pub. L. 92–392, § 12(b), included reference to section 5550 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as a note under section 5341 of this title.

§ 5550. Pay for Sunday and overtime work: employees of nonappropriated fund instrumentalities.

A "prevailing rate employee" described in paragraph (B) of section 5342(a)(2) of this title—

(1) if his regular work schedule includes an 8-hour period of service, a part of which is on Sunday, is entitled to additional pay at the rate of 25 percent of his hourly rate of basic pay for each hour of work performed during that 8-hour period of service;

(2) is entitled to overtime pay for overtime work in excess of 8 hours a day or 40 hours a week, computed in accordance with paragraph (1), (2), or (3), as applicable, of section 5544(a) of this title.

However, any such employee who regularly is required to remain at or within the confines of his post of duty in excess of 8 hours a day in a standby or on-call status is entitled to overtime pay only for hours of duty, exclusive of eating and sleeping time, in excess of 40 a week. (Added Pub. L. 92–392, § 10(a), Aug. 19, 1972, 86 Stat. 574.)

EFFECTIVE DATE

Section effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as a note under section 5341 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2105, 5548 of this title.

SUBCHAPTER VI.—PAYMENT FOR ACCUMULATED AND ACCRUED LEAVE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 38 sections 4107, 4118.

§ 5551. Lump-sum payment for accumulated and accrued leave on separation.

(a) An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia, who is separated from the service or elects to receive a lump-sum payment for leave under section 5552 of this title, is entitled to receive a lump-sum payment for accumulated and current accrued annual or vacation leave to which he is entitled by statute. The lump-sum payment shall equal the pay the employee or individual would have received had he remained in the service until expiration of the period of the annual or vacation leave. The lump-sum payment is considered pay for taxation purposes only.

(b) The accumulated and current accrued annual leave to which an officer excepted from subchapter I of chapter 63 of this title by section 6301(2)(x)–(xii) of this title, is entitled immediately before the date he is excepted under that section shall be liquidated by a lump-sum payment in accordance with subsection (a) of this section or subchapter VIII of this chapter, except that the payment is based on the rate of pay which he was receiving, immediately before the date on which section 6301(2)(x)–(xii) of this title became applicable to him. (As amended Pub. L. 93–181, § 1, Dec. 14, 1973, 87 Stat. 705.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–181 struck out exception clause that the lump-sum payment may not exceed pay for a period of annual or vacation leave in excess of 30 days or the number of days carried over to his credit at the beginning of the leave year in which entitlement to payment occurs, whichever is greater.

Subsec. (b). Pub. L. 93–181 struck out the second exception clause that the payment is made without regard to the limitation in subsec. (a) of this section on the amount of leave compensable.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5552, 5596, 6304, 6306, 8344 of this title; title 22 section 1149.

§ 5552. Lump-sum payment for accumulated and accrued leave on entering active duty; election.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5551, 5596, 6304 of this title.

SUBCHAPTER VII.—PAYMENTS TO MISSING EMPLOYEES

§ 5561. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 4342, 6954, 9342; title 26 sections 112, 6013.

§ 5562. Pay and allowances; continuance while in the missing status; limitations.

(a) An employee in a missing status is entitled to receive or have credited to his account, for the period he is in that status, the same pay and allowances to which he was entitled at the beginning of that period or may become entitled thereafter. Notwithstanding any other provision of law, an employee in a missing status on or after January 1, 1965, is entitled—

(1) to payment for annual leave which accrued to his account on or after January 1, 1965, but

which was forfeited under section 6304 of this title because he was unable to use that leave by virtue of his missing status; or

(2) to have all of that leave restored to him and credited to a separate leave account in accordance with the provisions of section 6304(d)(2) of this title.

An employee shall elect in writing, within 90 days immediately following the date of enactment of this sentence or within 90 days immediately following the termination of his missing status, whichever is later, whether he desires payment for the leave under clause (1) of this subsection or credit of the leave under clause (2) of this subsection. Payment under clause (1) of this subsection shall be at the employee's rate of basic pay in effect at the time the leave was forfeited.

• • • • •

(As amended Pub. L. 93–181, § 7(a), Dec. 14, 1973, 87 Stat. 707.)

REFERENCES IN TEXT

The date of enactment of this sentence, referred to in subsec. (a) of this section, is the date of enactment of Pub. L. 93–181, which was approved Dec. 14, 1973.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–181 added provisions relating to employees in missing status on or after January 1, 1965.

FORMER EMPLOYEES OR THEIR BENEFICIARIES

Section 7(b) of Pub. L. 93–181 provided that: "The amendment made by subsection (a) of this section [amending subsec. (a) of this section] shall apply to former employees or their beneficiaries."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5564, 6304 of this title; title 26 section 6013.

§ 5564. Travel and transportation; dependents; household and personal effects; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable.

STATUTES AT LARGE

Pub. L. 90–83, § 1(3), Sept. 11, 1967, 81 Stat. 201, cited to the credit, should be Pub. L. 90–83, § 1(33), Sept. 11, 1967, 81 Stat. 201.

§ 5566. Agency determinations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 2.

SUBCHAPTER VIII.—SETTLEMENT OF ACCOUNTS

§ 5581. Definitions.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 4–836 of the District of Columbia Code.

§ 5582. Designation of beneficiary; order of precedence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 2504; title 29 section 919; title 42 section 4955.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 4–836 of the District of Columbia Code.

§ 5583. Payment of money due; settlement of accounts.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 4–836 of the District of Columbia Code.

§ 5584. Claims for overpayment of pay and allowances, other than travel and transportation expenses and allowances and relocation expenses.

(a) A claim of the United States against a person arising out of an erroneous payment of pay, or allowances, other than travel and transportation expenses and allowances and relocation expenses payable under section 5724a of this title on or after July 1, 1960, to an employee of an agency, the collection of which would be against equity and good conscience and not in the best interests of the United States, may be waived in whole or in part by—

(1) the Comptroller General of the United States; or

(2) the head of an agency when—

• • • • •

(b) The Comptroller General or the head of the agency, as the case may be, may not exercise his authority under this section to waive any claim—

(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person having an interest in obtaining a waiver of the claim;

(2) except in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden, if application for waiver is received in his office, after the expiration of three years immediately following the date on which the erroneous payment of pay was discovered or three years immediately following October 21, 1968, whichever is later;

(3) except in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden, if application for waiver is received in his office after the expiration of three years immediately following the date on which the erroneous payment of allowances was discovered or three years immediately following October 2, 1972, whichever is later; or

(4) in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden, if application for waiver is received in his office after the expiration of 3 years immediately following the date on which the erroneous payment of pay or allowances was discovered or 3 years immediately following the date on which this clause (4) is enacted into law, whichever is later.

• • • • •

(g) For the purpose of this section, "agency" means—

(1) an Executive agency;

(2) the Government Printing Office;

(3) the Library of Congress;

(4) the Office of the Architect of the Capitol; and

(5) the Botanic Garden.

(As amended Pub. L. 92–453, § 3(1), Oct. 2, 1972, 86 Stat. 760; Pub. L. 93–359, § 1, July 25, 1974, 88 Stat. 393.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–359, § 1(1), substituted "agency" for "executive agency" in the provisions preceding cl. (1) and in cl. (2) preceding subcl. (A).

Subsec. (b). Pub. L. 93–359, § 1(1)–(4), substituted "agency" for "executive agency" in the provisions preceding cl. (1), inserted "except in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden," immediately following the designation "(2)" in cl. (2) and immediately following the designation "(3)" in cl. (3), struck out "or" at the end of cl. (2), substituted "October 2, 1972, whichever is later; or" for "the effective date of the amendment authorizing the waiver of allowances, whichever is later" in cl. (3) and struck out the period at the end of cl. (3), and added cl. (4).

Subsec. (g). Pub. L. 93–359, § 1(5), added subsec. (g).

1972—Pub. L. 92–453 added "and allowances, other than travel and transportation expenses and allowances and relocation expenses" at the end of the section catchline and in subsec. (a), substituted "payment of pay or allowances, other than travel and transportation expenses and allowances and relocation expenses payable under section 5724a of this title" for "payment of pay".

Subsec. (b)(2). Pub. L. 92–453 inserted "if application for waiver is received in his office" in the beginning of subsec. (b)(2), and substituted "October 21, 1968" for "the effective date of this section".

Subsec. (b)(3). Pub. L. 92–453 added subsec. (b)(3).

CROSS REFERENCES

Claims for overpayment of pay or allowances to the Vice President, Senators, officers and employees whose pay is disbursed by the Secretary of the Senate, and officers and employees whose pay is disbursed by the Clerk of the House of Representatives, see sections 130c and 130d of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6302, 8118 of this title; title 22 sections 2502, 2504.

SUBCHAPTER IX.—SEVERANCE PAY AND BACK PAY

§ 5595. Severance pay.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3381 of this title; title 38 sections 4107, 4118.

§ 5596. Back pay due to unjustified personnel action.

* * * * *

(b) An employee of an agency who, on the basis of an administrative determination or a timely appeal, is found by appropriate authority under applicable law or regulation to have undergone an unjustified or unwarranted personnel action that has resulted in the withdrawal or reduction of all or a part of the pay, allowances, or differentials of the employee—

* * * * *

(2) for all purposes, is deemed to have performed service for the agency during that period except that—

(A) annual leave restored under this paragraph which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Civil Service Commission, and

(B) annual leave credited under subparagraph (A) of this paragraph but unused and still available to the employee under regulations prescribed by the Commission shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

* * * * *

(As amended Pub. L. 94–172, § 1(a), Dec. 23, 1975, 89 Stat. 1025.)

AMENDMENTS

1975—Subsec. (b)(2). Pub. L. 94–172 struck out in introductory clause provision relating to prohibition on leave credit cumulated in excess of maximum allowed under law or regulations, and added subpars. (A) and (B).

EFFECTIVE DATE OF 1975 AMENDMENT

Section 1(b) of Pub. L. 94–172 provided that: "The amendment made by subsection (a) [amending subsec. (b)(2) of this section] shall apply to any employee found, on or after March 30, 1966, to have undergone an unjustified or unwarranted personnel action the correction of which entitled or entitles such employee to the benefits provided under section 5596 of title 5, United States Code."

LUMP-SUM PAYMENTS FOR FORMER EMPLOYEES NOT ON THE ROLLS ON DECEMBER 23, 1975

Section 2 of Pub. L. 94–172 provided that: "With respect to former employee (except a former employee referred to in section 3 of this Act [set out as a note under this section] who is not on the rolls on the date of the enactment of this Act [Dec. 23, 1975], annual leave which was not credited under section 5596 of title 5, United States Code, because it was in an amount that would have caused the amount of leave to the employee's credit to exceed the maximum amount of the leave authorized for the employee by law or regulation, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within three years immediately following the date of the enactment of this Act [Dec. 23, 1975] with the agency by which the employee was employed when the lump-sum payment provisions of section 5551 of title 5, United States Code, last became applicable to such employee. Payment shall be by that agency at the salary rate in effect on the date the lump-sum payment provisions became applicable."

LUMP-SUM PAYMENTS FOR POSTAL EMPLOYEES NOT ON THE ROLLS ON DECEMBER 23, 1975

Section 3 of Pub. L. 94–172 provided that:

"(a) With respect to a former employee of the Post Office Department or a former employee of the United States Postal Service who had prior civilian service with the Post Office Department or other Federal agency, who is not on the rolls on the date of the enactment of this Act [Dec. 23, 1975], annual leave which was accrued before July 1, 1971, but was not credited under section 5596 of title 5, United States Code, because it was in an amount that would have caused the amount of leave to his credit to exceed the maximum amount of the leave authorized for the employee by law or regulation, is subject to credit and, liquidation by lump-sum payment only if a claim therefor is filed within 3 years immediately following the date of enactment of this Act [Dec. 23, 1975] with the Postal Service. Payment shall be by the Postal Service at the salary rate in effect on the date the lump-sum payment provisions of section 5551 of title 5, United States Code, or comparable provisions of regulations of the Postal Service, as appropriate, last became applicable to the former employee.

"(b) With respect to a present employee of the Postal Service who had prior Federal civilian service with the Post Office Department or other Federal agency, annual leave which was accrued before July 1, 1971, but was not credited under section 5596 of title 5, United States Code, because it was in an amount that would have caused the amount of leave to the employee's credit to exceed the maximum amount of the leave authorized for the employee by law or regulation, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed with the Postal Service within three years immediately following the date of the enactment of this Act [Dec. 23, 1975]. Payment shall be by the Postal Service at the salary rate in effect on the date of the enactment of this Act [Dec. 23, 1975]."

Chapter 57.—TRAVEL, TRANSPORTATION, AND SUBSISTENCE

SUBCHAPTER I.—TRAVEL AND SUBSISTENCE EXPENSES; MILEAGE ALLOWANCES

Sec.
5707. Regulations and reports.

AMENDMENTS

1975—Pub. L. 94–22, § 7, May 19, 1975, 89 Stat. 86, added "and reports" after "Regulations" in item 5707.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 18 section 3168; title 42 section 5816.

SUBCHAPTER I.—TRAVEL AND SUBSISTENCE EXPENSES; MILEAGE ALLOWANCES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3375, 3381, 4109, 5354, 5723, 5751 of this title; title 2 section 476; title 7 section 2229; title 15 section 634; title 16 sections 793, 1032; title 21 section 874; title 22 sections 287e, 2024; title 42 sections 1975b, 2477; title 50 App. section 2019b.

§ 5701. Definitions.

For the purpose of this subchapter—

* * * * *

(2) "employee" means an individual employed in or under an agency including an individual employed intermittently in the Government service as an expert or consultant and paid on a daily when-actually-employed basis and an individual serving without pay or at $1 a year;

* * * * *

(As amended Pub. L. 94–22, § 2(a), May 19, 1975, 89 Stat. 84.)

AMENDMENTS

1975—Par. (2). Pub. L. 94–22 redefined "employee" to include individuals employed intermittently as experts or consultants and paid on a daily when-actually-employed basis, and individuals serving without pay at $1 a year.

SHORT TITLE OF 1975 AMENDMENT

Section 1 of Pub. L. 94–22 provided: "That this Act [amending this section, sections 5702, 5703, 5704, 5705 and 5707 of this title, and section 68b of Title 2, The Congress, and enacting provisions set out as a note under section 5707 of this title] may be cited as the 'Travel Expense Amendments Act of 1975'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 68b, 476; title 16 section 971h; title 22 section 1474; title 33 section 1104.

§ 5702. Per diem; employees traveling on official business.

(a) Under regulations prescribed under section 5707 of this title, an employee while traveling on official business away from his designated post of duty, or in the case of an individual described under section 5703 of this title, his home or regular place of business, is entitled to (1) a per diem allowance for travel inside the continental United States at a rate not to exceed $35, and (2) a per diem allowance for travel outside the continental United States, that may not exceed the rate established by the President, or his designee, for each locality where travel is to be performed. For travel consuming less than a full day, such rate may be allocated proportionately.

(b) Under regulations prescribed under section 5707 of this title, an employee who, while traveling on official business away from his designated post of duty or, in the case of an individual described under section 5703 of this title, his home or regular place of business, becomes incapacitated by illness or injury not due to his own misconduct, is entitled to the per diem allowance and appropriate transportation expenses to his designated post of duty, or home or regular place of business, as the case may be.

(c) Under regulations prescribed under section 5707 of this title, the Administrator of General Services, or his designee, may prescribe conditions under which an employee may be reimbursed for the actual and necessary expenses of official travel when the maximum per diem allowance would be less than these expenses, except that such reimbursement shall not exceed $50 for each day in a travel status within the continental United States when the per diem otherwise allowable is determined to be inadequate (A) due to the unusual circumstances of the travel assignment, or (B) for travel to high rate geographical areas designated as such in regulations prescribed under section 5707 of this title.

(d) Under regulations prescribed under section 5707 of this title, for travel outside the continental United States, the Administrator of General Services or his designee, may prescribe conditions under which an employee may be reimbursed for the actual and necessary expenses of official travel when the per diem allowance would be less than these expenses, except that such reimbursement shall not exceed $21 for each day in a travel status outside the continental United States plus the locality per diem rate prescribed for such travel.

(e) This section does not apply to a justice or judge, except to the extent provided by section 456 of title 28. (As amended Pub. L. 94–22, § 3, May 19, 1975, 89 Stat. 84.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–22 substituted provision relating to determination of the per diem allowance under regulations prescribed under section 5707 for provision allowing for such determination by the agency concerned, added provisions relating to an individual described under section 5703 and to the proportionate allocation of rates for travel consuming less than a full day, deleted provision relating to the Director of the Bureau of the Budget or another officer of the Government of the United States as persons who may be designees, and raised the maximum allowance from $25 to $35.

Subsec. (b). Pub. L. 94–22 added provision relating to an individual described under section 5703, added "appropriate" preceding "transportation", and "or home or regular place of business, as the case may be." following "expenses to his designated post of duty".

Subsec. (c). Pub. L. 94–22 substituted the Administrator of General Services, or his designee, for the head of the agency concerned, as the party who may prescribe conditions for reimbursement for actual and necessary expenses, raised from $40 to $50 the maximum reimbursement for travel within the continental United States when the rate otherwise allowable is inadequate due to unusual circumstances or due to travel to areas designated as high rate areas, and struck out a provision, now covered by subsec. (d), for a maximum allowance per day for travel outside the continental United States.

Subsec. (d). Pub. L. 94–22 transferred from subsec. (c) to (d) provisions for reimbursement for actual and necessary expenses for travel outside the continental United States and raised from $18 to $21 the maximum reimbursment for such expenses. Provisions of former subsec. (d) were redesignated as subsec. (e).

Subsec. (e). Pub. L. 94–22 redesignated former subsec. (d) as (e).

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Office of Management and Budget note set out under this Budget as the Office of Management and Budget. See section in the main volume.

DELEGATION OF FUNCTIONS

Authority of the President to establish maximum rates of per diem allowances to the extent that such authority pertains to travel status of employees (as defined in section 5701 of this title) while enroute to, from, or between localities situated outside the 48 contiguous States of the United States and the District of Columbia under the last sentence of subsec. (a) of this section delegated to the Administrator of General Services, see section 1(2) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5724a of this title; title 2 section 476; title 16 section 971h; title 22 sections 1474, 2396; title 26 section 4941; title 31 section 1032; title 42 section 2477.

§ 5703. Per diem, travel, and transportation expenses; experts and consultants; individuals serving without pay.

An employee serving intermittently in the Government service as an expert or consultant and paid on a daily when-actually-employed basis, or serving without pay or at $1 a year, may be allowed travel or transportation expenses, under this subchapter, while away from his home or regular place of business and at the place of employment or service. (As amended Pub. L. 94–22, § 4, May 19, 1975, 89 Stat. 85.)

AMENDMENTS

1975—Pub. L. 94–22 struck out separate provisions for per diem allowances of employees serving as experts, consultants, or serving without pay or at $1 a year.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 573, 5306, 5702 of this title; title 2 sections 352, 475; title 7 section 2233; title 12 sections 635a, 1701j–2, 1701y, 1749bbb–1; title 14 section 193; title 15 sections 205h, 205i, 636, 637, 1204, 1475, 1942, 2077, 2451; title 16 sections 1a–2, 1401, 1403, 1460; title 18 section 4351; title 19 section 2171; title 20 sections 685, 878, 880b–5, 959, 1089, 1091f, 1144, 1145, 1177, 1209, 1233c, 2012, 2103, 2106; title 21 section 376; title 22 sections 287o, 287q, 290f, 1474, 2103, 2191, 2351, 2581, 2672b, 2872, 2873, 2903, 2905; title 29 sections 656, 774, 792, 952, 1142, 1302; title 30 section 812; title 33 sections 857–10, 1320; title 36 section 821; title 40 sections 333, 822, 872; title 41 section 46; title 42 sections 210, 242*l*, 286a, 286f, 287f, 295d–2, 300d–8, 300j–5, 300k–3, 907, 1108, 1314, 1320a–1, 1320c–12, 1395dd, 1396e, 1396g, 1857e, 1870, 1873, 1975b, 2673, 2689q, 3015, 3211, 3609, 3742, 3747, 3765, 3889, 4025, 4553, 4914, 5032, 5042, 5404, 5651, 5661, 6007; title 44 section 3318; title 46 section 1482; title 47 section 396; title 49 sections 1657, 1673.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31–1602, 31–1622, 49–401 of the District of Columbia Code.

§ 5704. Mileage and related allowances.

(a) Under regulations prescribed under section 5707 of this title, an employee who is engaged on official business for the Government is entitled to not in excess of—

(1) 11 cents a mile for the use of a privately owned motorcycle;

(2) 20 cents a mile for the use of a privately owned automobile; or

(3) 24 cents a mile for the use of a privately owned airplane;

instead of actual expenses of transportation when that mode of transportation is authorized or approved as more advantageous to the Government. A determination of such advantage is not required when payment on a mileage basis is limited to the cost of travel by common carrier including per diem. Notwithstanding the preceding provisions of this subsection, in any case in which an employee who is engaged on official business for the Government chooses to use a privately owned vehicle in lieu of a Government vehicle, payment on a mileage basis is limited to the cost of travel by a Government vehicle.

(b) In addition to the mileage allowance authorized under subsection (a) of this section, the employee may be reimbursed for—

(1) parking fees;

(2) ferry fees;

(3) bridge, road, and tunnel costs; and

(4) airplane landing and tie-down fees.

(As amended Pub. L. 94–22, § 5, May 19, 1975, 89 Stat. 85.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–22 struck out "or other individual performing services for the Government" after "employee", substituted "for the Government" for "inside or outside his designated post of duty or place of service", increased from 8 to 11 cents the allowance for use of a motorcycle, from 12 to 20 cents the allowance for use of an automobile, and from 12 to 24 cents the allowance for use of an airplane, and added the provision relating to the limitation of an allowance to the cost of travel by Government vehicle when an employee chooses a privately owned vehicle in lieu of a Government vehicle.

Subsec. (b). Pub. L. 94–22 added "authorized" after "allowance", struck out "or other individual performing service for the Government" after "employee", and provided for the reimbursement of airplane landing and tie-down fee.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5707, 5724 of this title; title 2 section 476; title 16 section 971h; title 22 section 1474; title 30 section 812; title 33 section 1320; title 42 section 2477.

§ 5705. Advancements and deductions.

An agency may advance, through the proper disbursing official, to an employee entitled to per diem or mileage allowances under this subchapter, a sum considered advisable with regard to the character and probable duration of the travel to be performed. A sum advanced and not used for allowable travel expenses is recoverable from the employee or his estate by—

(1) setoff against accrued pay, retirement credit, or other amount due the employee;

(2) deduction from an amount due from the United States; and

(3) such other method as is provided by law.

(As amended Pub. L. 94–22, § 2(b), May 19, 1975, 89 Stat. 84.)

AMENDMENTS

1975—Pub. L. 94–22 struck out "or individual" following "employee" wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5724 of this title; title 16 section 971h; title 22 section 1474.

§ 5706. Allowable travel expenses.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 971h; title 22 section 1474.

§ 5707. Regulations and reports.

(a) The Administrator of General Services shall prescribe regulations necessary for the administration of this subchapter, except that the Director of the Administrative Office of the United States Courts shall prescribe such regulations with respect to official travel by employees of the judicial branch of the Government.

(b) (1) The Administrator of General Services, in consultation with the Comptroller General of the United States, the Secretary of Transportation, the Secretary of Defense, and representatives of organizations of employees of the Government, shall conduct periodic investigations of the cost of travel and the operation of privately owned vehicles to employees while engaged on official business, and shall report the results of such investigations to Congress at least once a year. In conducting the investigations, the Administrator shall review and analyze among other factors—

(A) depreciation of original vehicle cost;

(B) gasoline and oil (excluding taxes);

(C) maintenance, accessories, parts, and tires;

(D) insurance; and

(E) State and Federal taxes.

(2) The Administrator shall issue regulations under this section which shall prescribe mileage allowances which shall not exceed the amounts set forth in section 5704(a) of this title and which reflect the current costs, as determined by the Administrator, of operating privately owned motorcycles, automobiles, and airplanes. At least once each year after the issuance of the regulations described in the preceding sentence, the Administrator shall determine, based upon the results of his investigation, specific figures, each rounded to the nearest one-half cent, of the average, actual cost a mile during the period for the use of a privately owned motorcycle, automobile, and airplane. The Administrator shall report such figures to Congress not later than five working days after he makes his determination. Each such report shall be printed in the Federal Register. The mileage allowances contained in regulations prescribed under this section shall be adjusted within thirty days following the submission of that report to the figures so determined and reported by the Administrator. (As amended Pub. L. 94–22, § 6(a), May 19, 1975, 89 Stat. 85.)

AMENDMENTS

1975—Pub. L. 94–22 added "and reports" to section catchline, designated existing provisions as subsec. (a), and as so designated, substituted "Administrator of General Services" for "Director of the Bureau of the Budget", struck out provision for fixing, payment, advancement and recovery of travel allowances and expenses in accordance with the regulations and provision for the non-applicability of this section to per diem allowances under section 5703(c), and added provision for regulations for travel by employees of the judicial branch of the Government by the Director of the Administrative Office of the United States Courts, and added subsec. (b).

DELEGATION OF FUNCTIONS

Authority of the President under this section to prescribe regulations necessary for the administration of subchapter I of chapter 57 of this title (relating to travel and subsistence expenses and mileage allowances) delegated to the Administrator of General Services, see section 1(3) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

REGULATIONS; TIME FOR ISSUANCE

Section 6(b) of Pub. L. 94–22 provided that: "The regulations required under the first sentence of section 5707 (b) (2) of title 5, United States Code [subsec. (b) (2) of this section], as amended by subsection (a) of this section [see 1975 Amendment note above], shall be issued no later than thirty days after the effective date of this Act [May 19, 1975]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5702, 5704 of this title; title 16 section 971h; title 22 section 1474; title 40 section 872.

§ 5708. Effect on other statutes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 971h; title 22 section 1474.

SUBCHAPTER II.—TRAVEL AND TRANSPORTATION EXPENSES; NEW APPOINTEES, STUDENT TRAINEES, AND TRANSFERRED EMPLOYEES

§ 5722. Travel and transportation expenses of new appointees; posts of duties outside the continental United States.

DELEGATION OF FUNCTIONS

Authority of the President under subsec. (a) of this section to prescribe regulations with respect to the payment of travel expenses and transportation expenses of household goods and personal effects delegated to the Administrator of General Services, see section 1(4) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 5723. Travel and transportation expenses of new appointees and student trainees; manpower shortage positions.

DELEGATION OF FUNCTIONS

Authority of the President under subsec. (a) of this section to prescribe regulations with respect to the payment of travel expenses and transportation expenses delegated to the Administrator of General Services, see section 1(5) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 5724. Travel and transportation expenses of employees transferred; advancement of funds; reimbursement on commuted basis.

DELEGATION OF FUNCTIONS

Authority of the President under this section to prescribe the regulations provided for in this section (relating to travel and transportation expenses and other matters) delegated to the Administrator of General Services, see section 1(6) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 5724a. Relocation expenses of employees transferred or reemployed.

DELEGATION OF FUNCTIONS

Authority of the President under this section to prescribe the regulations provided for in this section, relating to (1) the availability of appropriations or other funds of agencies for the reimbursement of described ex-

penses of employees for whom the Government pays expenses of travel and transportation under section 5724(a) of this title, (ii) the entitlement of employees to amounts related to their basic pay, and (iii) the allowance, payment, and receipt of expenses and benefits to former employees who are reemployed by nontemporary appointments delegated to the Administrator of General Services, see section 1 (7) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5584 of this title.

§ 5726. Storage expenses; household goods and personal effects.

DELEGATION OF FUNCTIONS

Authority of the President under this section to prescribe the regulations provided for in this section relating to (i) the definition of "household goods and personal effects", (ii) allowable storage expenses and related transportation, and (iii) the allowance of nontemporary storage expenses or storage at Government expense in Government-owned facilities (including related transportation and other expenses) delegated to the Administrator of General Services, see section 1(8) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 5727. Transportation of motor vehicles.

DELEGATION OF FUNCTIONS

Authority of the President under this section to prescribe the regulations provided for in this section relating to the transportation at Government expense of privately owned motor vehicles delegated to the Administrator of General Services, see section 1(9) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 5728. Travel and transportation expenses; vacation leave.

DELEGATION OF FUNCTIONS

Authority of the President under subsecs. (a) and (b) of this section to prescribe the regulations provided for in this section relating to the payment by an agency from its appropriations of the expenses of round trip travel of an employee, and the transportation of his immediate family, in described circumstances delegated to the Administrator of General Services, see section 1(10) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 5729. Transportation expenses; prior return of family.

DELEGATION OF FUNCTIONS

Authority of the President under subsecs. (a) and (b) of this section to prescribe the regulations provided for therein, relating to (1) the payment by an agency from its appropriations of the expenses of transporting the immediate family of an employee and of shipping his household goods and personal effects, and (ii) the reimbursement from its appropriations by an agency of an employee for the proper transportation expense of returning his immediate family and household goods and personal effects, both in described circumstances, delegated to the Administrator of General Services, see section 1(11) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 5731. Expenses limited to lowest first-class rate.

DELEGATION OF FUNCTIONS

Authority of the President under subsec. (a) of this section to prescribe the regulations provided for therein, relating to certifications respecting transportation accommodations, delegated to the Administrator of General Services, see section 1(12) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 section 476; title 16 sections 971h, 1032; title 22 sections 287e, 287r, 1157, 2024; title 42 section 2477.

SUBCHAPTER III.—TRANSPORTATION OF REMAINS, DEPENDENTS, AND EFFECTS

§ 5742. Transportation of remains, dependents, and effects; death occurring away from official station or abroad.

DELEGATION OF FUNCTIONS

Authority of the President under subsection (b) of this section to prescribe regulations with respect to the payment of expenses when an employee dies delegated to the Administrator of General Services, see section 1(13) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

Chapter 59.—ALLOWANCES

§ 5903. Regulations.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Office of Management and Budget note set out under this section in the main volume.

DELEGATION OF FUNCTIONS

Authority of the President under this section to prescribe regulations necessary for the uniform administration of subchapter I of chapter 59 of this title relating to uniform allowances delegated to the United States Civil Service Commission, see section 8(2) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 5911. Quarters and facilities; employees in the United States.

DELEGATION OF FUNCTIONS

Authority of the President under subsec. (f) of this section to issue the regulations provided for therein (relating to the provision, occupancy, and availability of quarters and facilities, the determination of rates and charges therefor, and other related matters, as are necessary and appropriate to carry out the provisions of this section) delegated to the Director of the Office of Management and Budget, see section 9(1) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 5912. Quarters in Government owned or rented buildings; employees in foreign countries.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 sections 287e, 287r.

§ 5913. Official residence expenses.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 sections 287e, 2687.

§ 5923. Quarters allowances.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 2506.

§ 5924. Cost-of-living allowances.

The following cost-of-living allowances may be granted, when applicable, to an employee in a foreign area:

* * * * *

(2) A transfer allowance for extraordinary, necessary, and reasonable expenses, not otherwise compensated for, incurred by an employee incident to establishing himself at a post of assignment in—

(A) a foreign area (including costs incurred in the United States prior to departure for a post of assignment in a foreign area); or

(B) the United States between assignments to posts in foreign areas.

(3) A separate maintenance allowance to assist an employee who is compelled, because of dangerous, notably unhealthful, or excessively adverse living conditions at the employee's post of assignment in a foreign area, or for the convenience of the Government, to meet the additional expenses of maintaining, elsewhere than at the post, the employee's spouse or dependents, or both.

(4) An education allowance or payment of travel costs to assist an employee with the extraordinary and necessary expenses, not otherwise compensated for, incurred because of his service in a foreign area or foreign areas in providing adequate education for his dependents, as follows:

(A) An allowance not to exceed the cost of obtaining such kindergarten, elementary and secondary educational services as are ordinarily provided without charge by the public schools in the United States, plus, in those cases when adequate schools are not available at the post of the employee, board and room, and periodic transportation between that post and the nearest locality where adequate schools are available, without regard to section 529 of title 31. The amount of the allowance granted shall be determined on the basis of the educational facility used.

(B) The travel expenses of dependents of an employee to and from a school in the United States to obtain an American secondary or undergraduate college education, not to exceed one annual trip each way for each dependent of an employee of the Department of State or the United States Information Agency, or one trip each way for each dependent of any other employee, for the purpose of obtaining each type of education. An allowance payment under subparagraph (A) of this paragraph (4) may not be made for a dependent during the 12 months following his arrival in the United States for secondary education under authority contained in this subparagraph (B). Notwithstanding section 5921(6) of this title, travel expenses, for the purpose of obtaining undergraduate college education, may be authorized under this subparagraph (B), under such regulations as the President may prescribe, for dependents of employees who are citizens of the United States stationed in the Canal Zone.

(As amended Pub. L. 92–187, § 2, Dec. 15, 1971, 85 Stat. 644; Pub. L. 93–126, § 12, Oct. 18, 1973, 87 Stat. 454; Pub. L. 93–475, § 13, Oct. 26, 1974, 88 Stat. 1443; Pub. L. 94–141, title IV, § 405, Nov. 29, 1975, 89 Stat. 770.)

AMENDMENTS

1975—Par. (2)(A). Pub. L. 94–141 expanded applicability to include costs incurred in the United States prior to departure for a post of assignment in a foreign area.

1974—Par. (4)(B). Pub. L. 93–475 substituted "one annual trip each way for each dependent of an employee of the Department of State or the United States Information Agency, or one trip each way for each dependent of any other employee," for "one trip each way for each dependent".

1973—Par. (4)(A). Pub. L. 93–126 inserted "kindergarten," preceding "elementary".

1971—Par. (3). Pub. L. 92–187 substituted "the employee's post" for "his post" and "the employee's spouse or" for "his wife or his".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5941 of this title; title 22 section 2506.

§ 5925. Post differentials.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 2506.

§ 5941. Allowances based on living costs and conditions of environment; employees stationed outside continental United States or Alaska.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 1225.

§ 5942. Allowances based on duty at remote worksites.

DELEGATION OF FUNCTIONS

Authority of the President under this section to prescribe regulations establishing rates at which an allowance based on duty (except temporary duty) at remote worksites will be paid and defining and designating the sites, areas, and groups of positions to which the rates apply delegated to the United States Civil Service Commission, see section 8(3) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 5943. Foreign currency appreciation allowances.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization) plan in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Office of Management and Budget note set out under this section in the main volume.

DELEGATION OF FUNCTIONS

Authority of the President under subsec. (a) of this section to make recommendations concerning the meeting of losses sustained by employees and members of the uniformed services while serving in a foreign country due to appreciation of foreign currency in its relation to the American dollar and under subsec. (d) of this section to report annually to the Congress on expenditures made under subsec. (d) of this section, delegated to the Secretary of the Treasury, see section 2 of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

Subpart E.—Attendance and Leave

Chapter 61.—HOURS OF WORK

Sec.
6101. Basic 40-hour workweek; work schedules; regulations.
6103. Holidays.
6104. Holidays; daily, hourly, and piece-work basis employees.
6105. Closing of Executive departments.
6106. Time clocks; restrictions.

AMENDMENTS

1972—Pub. L. 92–392, § 7(b), Aug. 19, 1972, 86 Stat. 573, struck out item "6102. Eight-hour day; 40-hour work week; wage-board employees.".

§ 6101. Basic 40-hour workweek; work schedules; regulations.

(a)(1) For the purpose of this subsection, "employee" includes an employee of the government of the District of Columbia and an employee whose

pay is fixed and adjusted from time to time under section 5343 or 5349 of this title, or by a wage board or similar administrative authority serving the same purpose, but does not include an employee or individual excluded from the definition of employee in section 5541(2) of this title, except as specifically provided under this paragraph.

* * * * *

(4) Notwithstanding paragraph (3) of this subsection, the head of an Executive agency, a military department, or of the government of the District of Columbia may establish special tours of duty, of not less than 40 hours, to enable employees to take courses in nearby colleges, universities, or other educational institutions that will equip them for more effective work in the agency. Premium pay may not be paid to an employee solely because his special tour of duty established under this paragraph results in his working on a day or at a time of day for which premium pay is otherwise authorized.

* * * * *

(As amended Pub. L. 92–392, § 6, Aug. 19, 1972, 86 Stat. 573; Pub. L. 94–183, § 2(25), Dec. 31, 1975, 89 Stat. 1058.)

AMENDMENTS

1975—Subsec. (a) (4). Pub. L. 94–183 substituted "educational" for "education".

1972—Subsec. (a) (1). Pub. L. 92–392 defined "employee" to include an employee whose pay is fixed and adjusted from time to time under section 5343 or 5349 of this title or by a wage board or similar administrative authority serving the same purpose and exclude certain employees "except as specifically provided under this paragraph".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as a note under section 5341 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 sections 166b–1d, 166b–1e.

§ 6102. Repealed. Pub. L. 92–392, § 7(a), Aug. 19, 1972, 86 Stat. 573.

Section, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 515, provided for eight-hour day and 40-hour workweek for wage-board employees and is now covered by sections 5544(a) and 6101(a)(1) of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as a note under section 5341 of this title.

§ 6103. Holidays.

(a) The following are legal public holidays:

New Year's Day, January 1.

Washington's Birthday, the third Monday in February.

Memorial Day, the last Monday in May.

Independence Day, July 4.

Labor Day, the first Monday in September.

Columbus Day, the second Monday in October.

Veterans Day, November 11.

Thanksgiving Day, the fourth Thursday in November.

Christmas Day, December 25.

* * * * *

(As amended Pub. L. 94–97, Sept. 18, 1975, 89 Stat. 479.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–97 redesignated Veterans Day, substituting "November 11" for "the fourth Monday in October".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 1 of Pub. L. 94–97 provided in part that the amendment by Pub. L. 94–97 shall be effective Jan. 1, 1978.

EXECUTIVE ORDER NO. 10358

Ex. Ord. No. 10358, June 9, 1952, 17 F.R. 1529, as amended by Ex. Ord. No. 11226, May 27, 1965, 30 F.R. 7213; Ex. Ord. No. 11272, Feb. 23, 1966, 31 F.R. 3111, set out as a note under this section, which related to the observance of holidays, was revoked by Ex. Ord. No. 11582, Feb. 11, 1971, 36 F.R. 2957, set out as a note under this section.

EX. ORD. NO. 11582. OBSERVANCE OF HOLIDAYS

Ex. Ord. No. 11582, Feb. 11, 1971, 36 F.R. 2957, provided:

By virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1. Except as provided in section 7, this order shall apply to all executive departments, independent agencies, and Government corporations, including their field services.

SEC. 2. As used in this order:

(a) *Holiday* means the first day of January, the third Monday of February, the last Monday of May, the fourth day of July, the first Monday of September, the second Monday of October, the fourth Monday of October, the fourth Thursday of November, the twenty-fifth day of December, or any other calendar day designated as a holiday by Federal statute or Executive order.

(b) *Workday* means those hours which comprise in sequence the employee's regular daily tour of duty within any 24-hour period, whether falling entirely within one calendar day or not.

SEC. 3. (a) Any employee whose basic workweek does not include Sunday and who would ordinarily be excused from work on a holiday falling within his basic workweek shall be excused from work on the next workday of his basic workweek whenever a holiday falls on Sunday.

(b) Any employee whose basic workweek includes Sunday and who would ordinarily be excused from work on a holiday falling within his basic workweek shall be excused from work on the next workday of his basic workweek whenever a holiday falls on a day that has been administratively scheduled as his *regular* weekly nonworkday in lieu of Sunday.

SEC. 4. The holiday for a full-time employee for whom the head of a department has established the first 40 hours of duty performed within a period of not more than six days of the administrative workweek as his basic workweek because of the impracticability of prescribing a regular schedule of definite hours of duty for each workday, shall be determined as follows:

(a) If a holiday occurs on Sunday, the head of the department shall designate in advance either Sunday or Monday as the employee's holiday and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on the day designated as the employee's holiday.

(b) If a holiday occurs on Saturday, the head of the department shall designate in advance either the Saturday or the preceding Friday as the employee's holiday and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on the day designated as the employee's holiday.

(c) If a holiday occurs on any other day of the week, that day shall be the employee's holiday, and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on that day.

(d) When a holiday is less than a full day, proportionate credit will be given under paragraph (a), (b), or (c) of this section.

SEC. 5. Any employee whose workday covers portions of two calendar days and who would, except for this section, ordinarily be excused from work scheduled for the hours of any calendar day on which a holiday falls, shall instead be excused from work on his entire workday which commences on any such calendar day.

SEC. 6. In administering the provisions of law relating to pay and leave of absence, the workdays referred to in sections 3, 4, and 5 shall be treated as holidays in lieu of the corresponding calendar holidays.

SEC. 7. The provisions of this order shall apply to officers and employees of the Post Office Department and the United States Postal Service (except that sections 3, 4, 5, and 6 shall not apply to the Postal Field Service) until changed by the Postal Service in accordance with the Postal Reorganization Act.

SEC. 8. Executive Order No. 10358 of June 9, 1952, entitled *Observance of Holidays by Government Agencies* and amendatory Executive Orders No. 11226 of May 27 1965, and No. 11272 of February 23, 1966, are revoked.

SEC. 9. This order is effective as of January 1, 1971.

RICHARD NIXON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6104 of this title; title 21 section 1053; title 29 section 1201.

Chapter 63.—LEAVE

SUBCHAPTER I.—ANNUAL AND SICK LEAVE

Sec.
6301. Definitions.
6202. General provisions.
6303. Annual leave; accrual.
6304. Annual leave; accumulation.
6305. Home leave; leave for Chiefs of Missions; leave for crews of vessels.
6306. Annual leave; refund of lump-sum payments; recredit of annual leave.
6307. Sick leave; accrual and accumulation.
6308. Transfers between positions under different leave systems.
6310. Leave of absence; aliens.
6311. Regulations.
6312. Accrual and accumulation for former ASCS county office employees.

AMENDMENTS

1975—Pub. L. 94–183, § 2(27), Dec. 31, 1975, 89 Stat. 1058, struck out item 6309 "Leave of absence; rural carriers".

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in sections 4–408b, 31–1603, 31–1623 of the District of Columbia Code.

SUBCHAPTER I.—ANNUAL AND SICK LEAVE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5508, 5551 of this title; title 22 section 1151.

§ 6301. Definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5551, 6302, 6305, 6306, 6308 of this title; title 22 section 1151.

§ 6302. General provisions.

* * * * * *

(f) An employee who uses excess annual leave credited because of administrative error may elect to refund the amount received for the days of excess leave by lump-sum or installment payments or to have the excess leave carried forward as a charge against later-accruing annual leave, unless repayment is waived under section 5584 of this title. (As amended Pub. L. 93–181, § 4, Dec. 14, 1973, 87 Stat. 706.)

AMENDMENTS

1973—Subsec. (f). Pub. L. 93–181 added subsec. (f).

§ 6303. Annual leave; accrual.

* * * * * *

(b) Notwithstanding subsection (a) of this section, an employee whose current employment is limited to less than 90 days is entitled to annual leave under this subchapter only after being currently employed for a continuous period of 90 days under successive appointments without a break in service. After completing the 90-day period, the employee is entitled to be credited with the leave that would have accrued to him under subsection (a) of this section except for this subsection.

* * * * * *

(As amended Pub. L. 93–181, § 2, Dec. 14, 1973, 87 Stat. 705.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–181 substituted "an employee whose current employment is limited to less than 90 days is entitled" and "under successive appointments" for "an employee is entitled" and "under one or more appointments" respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6302, 6304, 6312 of this title.

§ 6304. Annual leave; accumulation.

(a) Except as provided by subsections (b), (d), and (e) of this section, annual leave provided by section 6303 of this title, which is not used by an employee, accumulates for use in succeeding years until it totals not more than 30 days at the beginning of the first full biweekly pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, occurring in a year.

* * * * * *

(d)(1) Annual leave which is lost by operation of this section because of—

(A) administrative error when the error causes a loss of annual leave otherwise accruable after June 30, 1960;

(B) exigencies of the public business when the annual leave was scheduled in advance; or

(C) sickness of the employee when the annual leave was scheduled in advance;

shall be restored to the employee.

(2) Annual leave restored under paragraph (1) of this subsection, or under clause (2) of section 5562(a) of this title, which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Civil Service Commission. Leave credited under this paragraph but unused and still available to the employee under the regulations prescribed by the Commission shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

(e) Annual leave otherwise accruable after June 30, 1960, which is lost by operation of this section because of administrative error and which is not credited under subsection (d)(2) of this section because the employee is separated before the error is discovered, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within 3 years immediately following the date of discovery of the error. Payment shall be made by the agency of employment when the lump-sum payment provisions of section 5551 of this title last became applicable to the employee at the salary rate

in effect on the date the lump-sum provisions became applicable. (As amended Pub. L. 93–181, § 3, Dec. 14, 1973, 87 Stat. 705.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–181, § 3(1), substituted "subsections (b), (d), and (e) of this section" for "subsection (b) of this section".

Subsecs. (d), (e). Pub. L. 93–181, § 3(2), added subsecs. (d) and (e).

LUMP-SUM PAYMENT FOR ACCRUED ANNUAL LEAVE TO FORMER EMPLOYEES OTHER THAN EMPLOYEES OF THE POST OFFICE DEPARTMENT AND UNITED STATES POSTAL SERVICE

Section 5 of Pub. L. 93–181 provided that: "With respect to a former employee (except a former employee under section 6 of this Act) [employees of the Post Office Department and the United States Postal Service] who is not on the rolls on the date of enactment of this Act [Dec. 14, 1973], annual leave which accrued after June 30, 1960, but, because of administrative error, was lost by operation of section 6304 of title 5, United States Code [this section] is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within three years immediately following the date of enactment of this Act [Dec. 14, 1973], with the agency by which he was employed when the lump-sum payment provisions of section 5551 of title 5, United States Code, last became applicable to him. Payment shall be by that agency at the salary rate in effect on the date the lump-sum payment provisions became applicable."

LUMP-SUM PAYMENT FOR ACCRUED ANNUAL LEAVE TO EMPLOYEES OF THE POST OFFICE DEPARTMENT AND THE UNITED STATES POSTAL SERVICE

Section 6 of Pub. L. 93–181 provided that:

"(a) With respect to a former employee of the Post Office Department or a former employee of the United States Postal Service who had prior civilian service with the Post Office Department or other Federal agency, who is not on the rolls on the date of enactment of this Act [Dec. 14, 1973], annual leave which accrued after June 30, 1960, and before July 1, 1971, but, because of administrative error was lost by operation of section 6304 of title 5, United States Code [this section], is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within three years immediately following the date of enactment of this Act [Dec. 14, 1973] with the Postal Service. Payment shall be by the Postal Service at the salary rate in effect on the date the lump-sum payment provisions of section 5551 of title 5, United States Code, or comparable provisions of regulations of the Postal Service, as appropriate, last became applicable to the former employee.

"(b) With respect to a present employee of the Postal Service who had prior Federal civilian service with the Post Office Department or other Federal agency, annual leave which accrued after June 30, 1960, and before July 1, 1971, but, because of administrative error was lost by operation of section 6304 of title 5, United States Code [this section], is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within three years immediately following the date of enactment of this Act [Dec. 14, 1973] with the Postal Service. Payment shall be by the Postal Service at the salary rate in effect on the date of enactment of this Act [Dec. 14, 1973]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5562, 6302, 6303, 6305 of this title; title 40 section 174j–8.

§ 6306. Annual leave; refund of lump-sum payment; recredit of annual leave.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 1149.

§ 6309. Repealed. Pub. L. 94–183, § 2(26), Dec. 31, 1975, 89 Stat. 1058.

Section, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 521, related to the authorized leave of absence of a rural postal carrier which occurred at the beginning, during, or at the end of a period of annual or sick leave.

SUBCHAPTER II.—OTHER PAID LEAVE

§ 6324. Absence of certain police and firemen.

(a) Sick leave may not be charged to the account of a member of the Metropolitan Police force or the Fire Department of the District of Columbia, the United States Park Police force, or the Executive Protective Service force for an absence due to injury or illness resulting from the performance of duty.

(b) The determination of whether an injury or illness resulted from the performance of duty shall be made under regulations prescribed by—

(1) the District of Columbia Council for members of the Metropolitan Police force and the Fire Department of the District of Columbia;

(2) the Secretary of the Interior for the United States Park Police force; and

(3) The Secretary of the Treasury for the Executive Protective Service force.

(As amended Pub. L. 94–183, § 2(28), (29), Dec. 31, 1975, 89 Stat. 1058.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–183, § 2(28), substituted "Executive Protective Service" for "White House Police".

Subsec. (b) (3). Pub. L. 94–183, § 2(29), substituted "Executive Protetcive Service" for "White House Police".

Subpart F.—Employee Relations

Chapter 71.—POLICIES

§ 7151. Policy.

DISCRIMINATION PROHIBITED IN EMPLOYMENT OF CIVILIAN PERSONNEL AT FACILITIES OPERATED BY THE DEPARTMENT OF DEFENSE IN FOREIGN COUNTRIES

Pub. L. 92–129, title I, § 106, Sept. 28, 1971, 85 Stat. 355, provided that: "Unless prohibited by treaty, no person shall be discriminated against by the Department of Defense or by any officer or employee thereof, in the employment of civilian personnel at any facility or installation operated by the Department of Defense in any foreign country because such person is a citizen of the United States or is a dependent of a member of the Armed Forces of the United States. As used in this section, the term 'facility or installation operated by the Department of Defense' shall include, but shall not be limited to, any officer's club, non-commissioned officers' club, post exchange, or commissary store."

CROSS REFERENCES

Nondiscrimination on account of age in Federally assisted programs, see section 6101 et seq. of Title 42, The Public Health and Welfare.

Nondiscrimination on account of age in Federal Government employment, see section 633a of Title 29, Labor.

§ 7152. Marital status.

(a) The President may prescribe rules which shall prohibit, as nearly as conditions of good administration warrant, discrimination because of marital status in an Executive agency or in the competitive service.

(b) Regulations prescribed under any provision of this title, or under any other provision of law, granting benefits to employees, shall provide the same benefits for a married female employee and her spouse and children as are provided for a married male employee and his spouse and children.

(c) Notwithstanding any other provision of law, any provision of law providing a benefit to a male Federal employee or to his spouse or family shall be

deemed to provide the same benefit to a female Federal employee or to her spouse or family. (As amended Pub. L. 92–187, § 3, Dec. 15, 1971, 85 Stat. 644.)

AMENDMENTS

1971—Pub. L. 92–187 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3302 of this title.

§ 7154. Other prohibitions.

* * * * * *

(b) In the administration of chapter 51, subchapters III and IV of chapter 53, and sections 305 and 3324 of this title, discrimination because of race, color, creed, sex, or marital status is prohibited with respect to an individual or a position held by an individual.

* * * * * *

(As amended Pub. L. 92–392, § 8, Aug. 19, 1972, 86 Stat. 573.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–392 included reference to subchapter IV of chapter 53 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as a note under section 5341 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2105 of this title; title 10 sections 4540, 7212, 9540.

Chapter 73.—SUITABILITY, SECURITY, AND CONDUCT

SUBCHAPTER I.—REGULATION OF CONDUCT

§ 7301. Presidential regulations.

EX. ORD. NO. 11491. LABOR-MANAGEMENT RELATIONS IN THE FEDERAL SERVICE

Ex. Ord. No. 11491, Oct. 29, 1969, 34 F.R. 17605, as amended by Ex. Ord. No. 11616, Aug. 26, 1971, 36 F.R. 17319; Ex. Ord. No. 11636, Dec. 17, 1971, 36 F.R. 24901; Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743, 7391; Ex. Ord. No. 11901, Jan. 30, 1976, 41 F.R. 4807, provided:

* * * * * *

SEC. 2. *Definitions.* When used in this Order, the term—

* * * * * *

(b) "Employee" means an employee of an agency and an employee of a nonappropriated fund instrumentality of the United States but does not include, for the purpose of exclusive recognition or national consultation rights, a supervisor, except as provided in section 24 of this Order;

(c) "Supervisor" means an employee having authority, in the interest of an agency, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of authority is not of a merely routine or clerical nature, but requires the use of independent judgment;

(d) [Revoked by Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

(e) "Labor organization" means a lawful organization of any kind in which employees participate and which exists for the purpose, in whole or in part, of dealing with agencies concerning grievances, personnel policies and practices, or other matters affecting the working conditions of their employees; but does not include an organization which—

* * * * * *

(2) assists or participates in a strike against the Government of the United States or any agency thereof, or imposes a duty or obligation to conduct, assist, or participate in such a strike;

* * * * * *

SEC. 3. *Application.* (a) * * *

* * * * * *

(b) This Order (except section 22) does not apply to—

* * * * * *

(5) The Foreign Service of the United States: Department of State, United States Information Agency and Agency for International Development and its successor agency or agencies.

(6) The Tennessee Valley Authority.

* * * * * *

SEC. 4. *Federal Labor Relations Council.* (a) There is hereby established the Federal Labor Relations Council, which consists of the Chairman of the Civil Service Commission, who shall be chairman of the Council, the Secretary of Labor, the Director of the Office of Management and Budget, and such other officials of the executive branch as the President may designate from time to time. The Civil Service Commission shall provide administrative support and services to the Council to the extent authorized by law.

* * * * * *

(c) The Council may consider, subject to its regulations—

(1) appeals from decisions of the Assistant Secretary issued pursuant to section 6 of this order, except where, in carrying out his authority under section 11(d), he makes a negotiability determination, in which instance the party adversely affected shall have a right of appeal;

* * * * * *

SEC. 6. *Assistant Secretary of Labor for Labor-Management Relations.*

(a) The Assistant Secretary shall—

* * * * * *

(3) decide questions as to the eligibility of labor organizations for national consultation rights under criteria prescribed by the Council;

(4) decide unfair labor practice complaints (including those where an alleged unilateral act by one of the parties requires an initial negotiability determination) and alleged violations of the standards of conduct for labor organizations; and

(5) decide questions as to whether a grievance is subject to a negotiated grievance procedure or subject to arbitration under an agreement as provided in section 13(d) of this order.

* * * * * *

SEC. 7. *Recognition in general.*

* * * * * *

(d) Recognition of a labor organization does not—

(1) preclude an employee, regardless of whether he is in a unit of exclusive recognition, from exercising grievance or appelate rights established by law or regulation, or from choosing his own representative in a grievance or appelate action, except when the grievance is covered under a negotiated procedure as provided in section 13;

(2) preclude or restrict consultations and dealings between an agency and a veterans organization with respect to matters of particular interest to employees with veterans preference; or

(3) preclude an agency from consulting or dealing with a religious, social, fraternal, professional or other lawful association, not qualified as a labor organization, with respect to matters or policies which involve individual members of the association or are of particular applicability to it or its members. Consultations and dealings under subparagraph (3) of this paragraph shall be so limited that they do not assume the character of formal consultation on matters of general employee-management policy covering employees in that unit or extend to areas where recognition of the interests of one employee group may result in discrimination against or injury to the interests of other employees.

(e) [Revoked by Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

(f) Informal recognition or formal recognition shall not be accorded.

SEC. 8. [Revoked by Ex. Ord. No. 11616, Aug. 26, 1971, 36 F.R. 17319.]

SEC. 9. *National consultation rights.* (a) * * *

* * * * *

(b) When a labor organization has been accorded national consultation rights, the agency, through appropriate officials, shall notify representatives of the organization of proposed substantive changes in personnel policies that affect employees it represents and provide an opportunity for the organization to comment on the proposed changes. The labor organization may suggest changes in the agency's personnel policies and have its views carefully considered. It may consult in person at reasonable times, on request, with appropriate officials on personnel policy matters, and at all times present its views thereon in writing. An agency is not required to consult with a labor organization on any matter on which it would not be required to meet and confer if the organization were entitled to exclusive recognition.

* * * * *

SEC. 10. *Exclusive recognition.* (a) An agency shall accord exclusive recognition to a labor organization when the organization has been selected, in a secret ballot election, by a majority of the employees in an appropriate units as their representative; provided that this section shall not preclude an agency from according exclusive recognition to a labor organization, without an election, where the appropriate unit is established through the consolidation of existing exclusively recognized units represented by that organization.

(b) A unit may be established on a plant or installation, craft, functional, or other basis which will ensure a clear and identifiable community of interest among the employees concerned and will promote effective dealings and efficiency of agency operations. A unit shall not be established solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be established if it includes—

(1) any management official or supervisor, except as provided in section 24;

(2) an employee engaged in Federal personnel work in other than a purely clerical capacity; or

(3) [Revoked by Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

* * * * *

(c) [Revoked by Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

(d) All elections shall be conducted under the supervision of the Assistant Secretary, or persons designated by him, and shall be by secret ballot. Each employee eligible to vote shall be provided the opportunity to choose the labor organization he wishes to represent him, from among those on the ballot, or 'no union', except as provided in subparagraph (4) of this paragraph. Elections may be held to determine whether—

(1) a labor organization should be recognized as the exclusive representative of employees in a unit;

(2) a labor organization should replace another labor organization as the exclusive representative;

(3) a labor organization should cease to be the exclusive representative; or

(4) a labor organization should be recognized as the exclusive representative of employees in a unit composed of employees in units currently represented by that labor organization or continue to be recognized in the existing separate units.

* * * * *

SEC. 11. *Negotiation of agreements.* (a) An agency and a labor organization that has been accorded exclusive recognition, through appropriate representatives, shall meet at reasonable times and confer in good faith with respect to personnel policies and practices and matters affecting working conditions, so far as may be appropriate under applicable laws and regulations, including policies set forth in the Federal Personnel Manual; published agency policies and regulations for which a compelling need exists under criteria established by the Federal Labor Relations Council and which are issued at the agency headquarters level or at the level of a primary national subdivision; a national or other controlling agreement at a higher level in the agency; and this order. They may negotiate an agreement, or any question arising thereunder; determine appropriate techniques, consistent with section 17 of this order, to assist in such negotiation; and execute a written agreement or memorandum of understanding.

(b) In prescribing regulations relating to personnel policies and practices and working conditions, an agency shall have due regard for the obligation imposed by paragraph (a) of this section. However, the obligation to meet and confer does not include matters with respect to the mission of an agency; its budget; its organization; the number of employees; and the numbers, types, and grades of positions or employees assigned to an organizational unit, work project or tour of duty; the technology of performing its work; or its internal security practices. This does not preclude the parties from negotiating agreements providing appropriate arrangements for employees adversely affected by the impact of realignment of work forces or technological change.

(c) If, in connection with negotiations, an issue develops as to whether a proposal is contrary to law, regulation, controlling agreement, or this order and therefore not negotiable, it shall be resolved as follows:

(1) An issue which involves interpretation of a controlling agreement at a higher agency level is resolved under the procedures of the controlling agreement, or, if none, under agency regulations;

(2) An issue other than as described in subparagraph (1) of this paragraph which arises at a local level may be referred by either party to the head of the agency for determination;

(3) An agency head's determination as to the interpretation of the agency's regulations with respect to a proposal is final;

(4) A labor organization may appeal to the Council for a decision when—

(i) it disagrees with an agency head's determination that a proposal would violate applicable law, regulation of appropriate authority outside the agency, or this order, or

(ii) it believes that an agency's regulations, as interpreted by the agency head, violate applicable law, regulation of appropriate authority outside the agency, or this order, or are not otherwise applicable to bar negotiations under paragraph (a) of this section.

(d) If, as the result of an alleged unilateral change in, or addition to, personnel policies and practices or matters affecting working conditions, the acting party is charged with a refusal to consult, confer or negotiate as required under this order, the Assistant Secretary may, in the exercise of his authority under section 6(a)(4) of the order, make those determinations of negotiability as may be necessary to resolve the merits of the alleged unfair labor practice. In such cases the party subject to an adverse ruling may appeal the Assistant Secretary's negotiability determination to the Council.

* * * * *

SEC. 13. *Grievance and arbitration procedures.* (a) An agreement between an agency and a labor organization shall provide a procedure, applicable only to the unit, for the consideration of grievances. The coverage and scope of the procedure shall be negotiated by the parties to the agreement with the exception that it may not cover matters for which a statutory appeal procedure exists and so long as it does not otherwise conflict with statute or this order. It shall be the exclusive procedure available to the parties and the employees in the unit for resolving grievances which fall within its coverage. However, any employee or group of employees in the unit may present such grievances to the agency and have them adjusted, without the intervention of the exclusive representative, as long as the adjustment is not inconsistent with the terms of the agreement and the exclusive representative has been given opportunity to be present at the adjustment.

(b) A negotiated procedure may provide for arbitration of grievances. Arbitration may be invoked only by the agency or the exclusive representative. Either party may file exceptions to an arbitrator's award with the Council, under regulations prescribed by the Council.

(c) [Revoked.]

(d) Questions that cannot be resolved by the parties as to whether or not a grievance is on a matter for which a statutory appeal procedure exists, shall be referred to the

Assistant Secretary for decision. Other questions as to whether or not a grievance is on a matter subject to the grievance procedure in an existing agreement, or is subject to arbitration under that agreement, may by agreement of the parties be submitted to arbitration or may be referred to the Assistant Secretary for decision.

(e) [Revoked.]

SEC. 14. [Revoked by Ex. Ord. No. 11616, Aug. 26, 1971, 36 F.R. 17319.]

SEC. 15. *Approval of agreements.* An agreement with a labor organization as the exclusive representative of employees in a unit is subject to the approval of the head of the agency or an official designated by him. An agreement shall be approved within forty-five days from the date of its execution if it conforms to applicable laws, the order, existing published agency policies and regulations (unless the agency has granted an exception to a policy or regulation) and regulations of other appropriate authorities. An agreement which has not been approved or disapproved within forty-five days from the date of its execution shall go into effect without the required approval of the agency head and shall be binding on the parties subject to the provisions of law, the order and the regulations of appropriate authorities outside the agency. A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement, or, if none, under agency regulations.

* * * * *

SEC. 19. *Unfair labor practices.*

* * * * *

(d) Issues which can properly be raised under an appeals procedure may not be raised under this section. Issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under that procedure or the complaint procedure under this section, but not under both procedures. Appeals or grievance decisions shall not be construed as unfair labor practice decisions under this Order nor as precedent for such decisions. All complaints under this section that cannot be resolved by the parties shall be filed with the Assistant Secretary.

SEC. 20. *Use of official time.* Solicitation of membership or dues, and other internal business of a labor organization, shall be conducted during the non-duty hours of the employees concerned. Employees who represent a recognized labor organization shall not be on official time when negotiating an agreement with agency management, except to the extent that the negotiating parties agree to other arrangements which may provide that the agency will either authorize official time for up to 40 hours or authorize up to one-half the time spent in negotiations during regular working hours, for a reasonable number of employees, which number normally shall not exceed the number of management representatives.

SEC. 21. *Allotment of dues.* (a) * * *

* * * * *

(b) [Revoked by Ex Ord. No. 11833, Feb. 6, 1975, 40 F.R. 5743.]

* * * * *

SEC. 23. *Agency implementation.* No later than April 1, 1970, each agency shall issue appropriate policies and regulations consistent with this Order for its implementation. This includes but is not limited to a clear statement of the rights of its employees under this Order; procedures with respect to recognition of labor organizations, determination of appropriate units, consultation and negotiation with labor organizations, approval of agreements, meditation, and impasse resolution; policies with respect to the use of agency facilities by labor organizations; and policies and practices regarding consultation with other organizations and associations and individual employees. Insofar as practicable, agencies shall consult with representatives of labor organizations in the formulation of these policies and regulations.

SEC. 24. *Savings clauses.* This Order does not preclude—

(1) the renewal or continuation of a lawful agreement between an agency and a representative of its employees entered into before the effective date of Executive Order No. 10988 (January 17, 1962); or

(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent the management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the date of this Order.

SEC. 25. *Guidance, training, review and information.* (a) The Civil Service Commission, in conjunction with the Office of Management and Budget, shall establish and maintain a program for the policy guidance of agencies on labor-management relations in the Federal service and periodically review the implementation of these policies. The Civil Service Commission shall continuously review the operation of the Federal labor-management relations program to assist in assuring adherence to its provisions and merit system requirements; implement technical advice and information programs for the agencies; assist in the development of programs for training agency personnel and management officials in labor-management relations; and, from time to time, report to the Council on the state of the program with any recommendations for its improvement.

* * * * *

EX. ORD. NO. 11838. AMENDING EXECUTIVE ORDER NO. 11491, AS AMENDED, RELATING TO LABOR-MANAGEMENT RELATIONS IN THE FEDERAL SERVICE

Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743, 7391, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States, including sections 3301 and 7301 of title 5 of the United States Code, and as President of the United States, Executive Order No. 11491 of October 29, 1969, as amended by Executive Orders 11616 and 11636 [set out as a note under this section], relating to labor-management relations in the Federal service, is further amended as follows:

1. Section 2(c) is amended by deleting the words "or to evaluate their performance,".

2. Section 2(d) is revoked.

3. Paragraph (1) of section 4(c) is amended to read as follows:

"(1) appeals from decisions of the Assistant Secretary issued pursuant to section 6 of this order, except where, in carrying out his authority under section 11(d), he makes a negotiability determination, in which instance the party adversely affected shall have a right of appeal;".

4. Paragraphs (4) and (5) of section 6(a) are amended to read as follows:

"(4) decide unfair labor practice complaints (including those where an alleged unilateral act by one of the parties requires an initial negotiability determination) and alleged violations of the standards of conduct for labor organizations; and

"(5) decide questions as to whether a grievance is subject to a negotiated grievance procedure or subject to arbitration under an agreement as provided in section 13(d) of this order."

5. Section 7(d) is amended to read as follows:

"(d) Recognition of a labor organization does not—

(1) preclude an employee, regardless of whether he is in a unit of exclusive recognition, from exercising grievance or appellate rights established by law or regulation, or from choosing his own representative in a grievance or appellate action, except when the grievance is covered under a negotiated procedure as provided in section 13;

(2) preclude or restrict consultations and dealings between an agency and a veterans organization with respect to matters of particular interest to employees with veterans preference; or

(3) preclude an agency from consulting or dealing with a religious, social, fraternal, professional or other lawful association, not qualified as a labor organization, with respect to matters or policies which involve individual members of the association or are of particular applicability to it or its members. Consultations and dealings under subparagraph (3) of this paragraph shall be so limited that they do not assume the character of formal consultation on matters of general employee-management policy covering employees in that unit or extend to areas where recognition of the interests of one employee group may result in discrimination against or injury to the interests of other employees."

6. Section 7(e) is revoked.

7. Section 9(b) is amended by substituting the word "consult" for the word "confer" in the third sentence thereof.

8. Section 10(a) is amended to read as follows:

"(a) An agency shall accord exclusive recognition to a labor organization when the organization has been selected in a secret ballot election, by a majority of the employees in an appropriate unit as their representative; provided that this section shall not preclude an agency from according exclusive recognition to a labor organization, without an election, where the appropriate unit is established through the consolidation of existing exclusively recognized units represented by that organization."

9. Paragraph (2) of section 10(b) is amended by adding at the end thereof the word "or".

10. Paragraph (3) of section 10(b) is revoked.

11. Section 10(c) is revoked.

12. Section 10(d) is amended to read as follows:

"(d) All elections shall be conducted under the supervision of the Assistant Secretary, or persons designated by him, and shall be by secret ballot. Each employee eligible to vote shall be provided the opportunity to choose the labor organization he wishes to represent him, from among those on the ballot, or 'no union', except as provided in subparagraph (4) of this paragraph. Elections may be held to determine whether—

(1) a labor organization should be recognized as the exclusive representative of employees in a unit;

(2) a labor organization should replace another labor organization as the exclusive representative;

(3) a labor organization should cease to be the exclusive representative; or

(4) a labor organization should be recognized as the exclusive representative of employees in a unit composed of employees in units currently represented by that labor organization or continue to be recognized in the existing separate units."

13. Section 11 is amended to read as follows:

"Sec. 11. *Negotiation of agreements.* (a) An agency and a labor organization that has been accorded exclusive recognition, through appropriate representatives, shall meet at reasonable times and confer in good faith with respect to personnel policies and practices and matters affecting working conditions, so far as may be appropriate under applicable laws and regulations, including policies set forth in the Federal Personnel Manual; published agency policies and regulations for which a compelling need exists under criteria established by the Federal Labor Relations Council and which are issued at the agency headquarters level or at the level of a primary national subdivision; a national or other controlling agreement at a higher level in the agency; and this order. They may negotiate an agreement, or any question arising thereunder; determine appropriate techniques, consistent with section 17 of this order, to assist in such negotiation; and execute a written agreement or memorandum of understanding.

"(b) In prescribing regulations relating to personnel policies and practices and working conditions, an agency shall have due regard for the obligation imposed by paragraph (a) of this section. However, the obligation to meet and confer does not include matters with respect to the mission of an agency; its budget; its organization; the number of employees; and the numbers, types, and grades of positions or employees assigned to an organizational unit, work project or tour of duty; the technology of performing its work; or its internal security practices. This does not preclude the parties from negotiating agreements providing appropriate arrangements for employees adversely affected by the impact of realignment of work forces or technological change.

"(c) If, in connection with neogtiations, an issue develops as to whether a proposal is contrary to law, regulation, controlling agreement, or this order and therefore not negotiable, it shall be resolved as follows:

(1) An issue which involves interpretation of a controlling agreement at a higher agency level is resolved under the procedures of the controlling agreement, or, if none, under agency regulations;

(2) An issue other than as described in subparagraph (1) of this paragraph which arises at a local level may be referred by either party to the head of the agency for determination;

(3) An agency head's determination as to the interpretation of the agency's regulations with respect to a proposal is final;

(4) A labor organization may appeal to the Council for a decision when—

(i) it disagrees with an agency head's determination that a proposal would violate applicable law, regulation of appropriate authority outside the agency, or this order, or

(ii) it believes that an agency's regulations, as interpreted by the agency head, violate applicable law, regulation of appropriate authority outside the agency, or this order, or are not otherwise applicable to bar negotiations under paragraph (a) of this section.

"(d) If, as the result of an alleged unilateral change in, or addition to, personnel policies and practices or matters affecting working conditions, the acting party is charged with a refusal to consult, confer or negotiate as required under this order, the Assistant Secretary may, in the exercise of his authority under section 6(a)(4) of the order, make those determinations of negotiability as may be necessary to resolve the merits of the alleged unfair labor practice. In such cases the party subject to an adverse ruling may appeal the Assistant Secretary's negotiability determination to the Council."

14. Section 13 is amended to read as follows:

"Sec. 13. *Grievance and arbitration procedures.* (a) An agreement between an agency and a labor organization shall provide a procedure, applicable only to the unit, for the consideration of grievances. The coverage and scope of the procedure shall be negotiated by the parties to the agreement with the exception that it may not cover matters for which a statutory appeal procedures exists and so long as it does not otherwise conflict with statute or this order. It shall be the exclusive procedure available to the parties and the employees in the unit for resolving grievances which fall within its coverage. However, any employee or group of employees in the unit may present such grievances to the agency and have them adjusted, without the intervention of the exclusive representative, as long as the adjustment is not inconsistent with the terms of the agreement and the exclusive representative has been given opportunity to be present at the adjustment.

"(b) A negotiated procedure may provide for arbitration of grievances. Arbitration may be invoked only by the agency or the exclusive representative. Either party may file exceptions to an arbitrator's award with the Council, under regulations prescribed by the Council.

(c) [Revoked.]

"(d) Questions that cannot be resolved by the parties as to whether or not a grievance is on a matter for which a statutory appeal procedure exists, shall be referred to the Assistant Secretary for decision. Other questions as to whether or not a grievance is on a matter subject to the grievance procedure in an existing agreement, or is subject to arbitration under that agreement, may by agreement of the parties be submitted to arbitration or may be referred to the Assistant Secretary for decision."

(e) [Revoked.]

15. Section 15 is amended to read as follows:

"Sec. 15. *Approval of agreements.* An agreement with a labor organization as the exclusive representative of employees in a unit is subject to the approval of the head of the agency or an official designated by him. An agreement shall be approved within forty-five days from the date of its execution if it conforms to applicable laws, the order, existing published agency policies and regulations (unless the agency has granted an exception to a policy or regulation) and regulations of other appropriate authorities. An agreement which has not been approved or disapproved within forty-five days from the date of its execution shall go into effect without the required approval of the agency head and shall be binding on the parties subject to the provisions of law, the order and the regulations of appropriate authorities outside the agency. A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement, or, if none, under agency regulations."

16. Section 21(b) is revoked.

17. Section 23 is amended by deleting at the end thereof the following:

"other than those for the implementation of section 7(e) of this order".

The amendments made by this order shall become effective ninety days from this date except that the amendments to sections 11(a) and 11(c) shall not become effective until ninety days after issuance by the Federal Labor Council of the criteria for determining compelling need. Each agency shall issue appropriate policies and regulations consistent with this order for its implementation.

GERALD R. FORD.

EMPLOYEE-MANAGEMENT RELATIONS IN THE FOREIGN SERVICE

For provisions governing employee-management relations in the Foreign Service, see Ex. Ord. No. 11636, Dec. 17, 1971, 36 F.R. 24901, set out as a note under section 801 of Title 22, Foreign Relations and Intercourse.

SUBCHAPTER II.—EMPLOYMENT LIMITATIONS

§ 7311. Loyalty and striking.

EX. ORD. NO. 10450. SECURITY REQUIREMENTS FOR GOVERNMENT EMPLOYEES

Ex. Ord. No. 10450, Apr. 27, 1953, 18 F.R. 2489, as amended by Ex. Ord. No. 10941, Oct. 15, 1953, 18 F.R. 6583; Ex. Ord. No. 10531, May 27, 1954, 19 F.R. 3069; Ex. Ord. No. 10548, Aug 3, 1954, 19 F.R. 4871; Ex. Ord. No. 10550, Aug. 6, 1954, 19 F.R. 4981; Ex. Ord. No. 11605, July 2, 1971, 36 F.R. 12831; Ex. Ord. No. 11785, June 4, 1974, 39 F.R. 20053, provided:

* * * * * *

SEC. 8. (a) The investigations conducted pursuant to this order shall be designed to develop information as to whether the employment or retention in employment in the Federal service of the person being investigated is clearly consistent with the interests of the national security. Such information shall relate, but shall not be limited, to the following:

* * * * * *

(5) Knowing membership with the specific intent of furthering the aims of, or adherence to and active participation in, any foreign or domestic organization, association, movement, group, or combination of persons (hereinafter referred to as organizations) which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the Government of the United States or any State or subdivision thereof by unlawful means.

* * * * * *

SEC. 12. Executive Order No. 9835 of March 21, 1947, as amended, is hereby revoked.

EXECUTIVE ORDER NO. 11605

Ex. Ord. No. 11605, July 2, 1971, 36 F.R. 12831, which amended Ex. Ord. No. 10450, Apr. 27, 1953, 18 F.R. 2489, set out as a note under this section, which related to security requirements for government employees, was revoked by Ex. Ord. No. 11785, June 4, 1974, 39 F.R. 20053, set out as a note under this section.

EX. ORD. NO. 11785, SECURITY REQUIREMENTS FOR GOVERNMENTAL EMPLOYEES

Ex. Ord. No. 11785, June 4, 1974, 39 F.R. 20053, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States, including 5 U.S.C. 1101 *et seq.*, 3301, 3571, 7301, 7313, 7501(c), 7512, 7532, and 7533; and as President of the United States, and finding such action necessary in the best interests of national security, it is hereby ordered as follows:

SECTION 1. Section 12 of Executive Order No. 10450 of April 27, 1953, as amended [set out as a note under this section], is revised to read in its entirety as follows:

"SEC. 12. Executive Order No. 9835 of March 21, 1947, as amended, is hereby revoked."

SEC. 2. Neither the Attorney General, nor the Subversive Activities Control Board, nor any other agency shall designate organizations pursuant to section 12 of Executive Order No. 10450, as amended, nor circulate nor publish a list of organizations previously so designated. The list of organizations previously designated is hereby abolished and shall not be used for any purpose.

SEC. 3. Subparagraph (5) of paragraph (a) of section 8 of Executive Order No. 10450, as amended, is revised to read as follows:

"Knowing membership with the specific intent of furthering the aims of, or adherence to and active participation in, any foreign or domestic organization, association, movement, group, or combination of persons (hereinafter referred to as organizations) which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the Government of the United States or any State or subdivision thereof by unlawful means."

SEC. 4. Executive Order No. 11605 of July 2, 1971, is revoked.

RICHARD NIXON.

SUBCHAPTER III.—POLITICAL ACTIVITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 42 section 5055.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in section 1–128 of the District of Columbia Code.

§ 7324. Influencing elections; taking part in political campaigns; prohibitions; exceptions.

* * * * * *

(d) Subsection (a)(2) of this section does not apply to—

* * * * * *

(4) the Mayor of the District of Columbia, the members of the Council of the District of Columbia, or the Chairman of the Council of the District of Columbia, as established by the District of Columbia Self-Government and Governmental Reorganization Act; or

* * * * * *

(As amended Pub. L. 93–268, § 4(a), Apr. 17, 1974, 88 Stat. 87.)

AMENDMENTS

1974—Subsec. (d)(4). Pub. L. 93–268 substituted "the Mayor of the District of Columbia, the members of the Council of the District of Columbia, or the Chairman of the Council of the District of Columbia, as established by the District of Columbia Self-Government and Governmental Reorganization Act" for "the Commissioners of the District of Columbia".

COMMISSIONER OF THE DISTRICT OF COLUMBIA AND MEMBERS OF THE DISTRICT OF COLUMBIA COUNCIL EXEMPTED FROM PROHIBITIONS

Section 4(b) of Pub. L. 93–268 provided that: "Notwithstanding any other provision of law, the provisions of section 7324(a)(2) of title 5, United States Code [subsec. (a)(2) of this section], shall not be applicable to the Commissioner of the District of Columbia or the members of the District of Columbia Council (including the Chairman and Vice Chairman), as established by Reorganization Plan Numbered 3 of 1967 [set out in the Appendix to this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7325, 7326, 7327 of this title.

Chapter 75.—ADVERSE ACTIONS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3382 of this title; title 39 section 1005.

§ 7501. Cause; procedure; exception.

EXECUTIVE ORDER NO. 10987

Ex. Ord. No. 10987, Jan. 18, 1962, 27 F.R. 550, set out as a note under this section, which related to agency systems for appeals from adverse action, was revoked by Ex. Ord. No. 11787, June 11, 1974, 39 F.R. 20675, set out as a note under section 7701 of this title.

§ 7511. Definitions.

For the purpose of this subchapter—

(1) "preference eligible employee" means a permanent or indefinite preference eligible who has completed a probationary or trial period as an employee of an Executive agency or as an individual employed by the government of the District of Columbia, but does not include an employe whose appointment is required by Congress to be confirmed by, or made with the advice and consent of, the Senate; and

* * * * *

(As amended Pub. L. 94–183, § 2(30), Dec. 31, 1975, 89 Stat. 1058.)

AMENDMENTS

1975—Par. (1). Pub. L. 94–183 deleted ", except an employee whose appointment is made under section 3311 of title 39" following "or made with the advice and consent of, the Senate".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7501, 7701 of this title; title 32 section 709.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 4–825, 4–828, 31–1603, 31–1623 of the District of Columbia Code.

§ 7521. Removal.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 661; title 42 section 2000e–4.

Chapter 77.—APPEALS

§ 7701. Appeals of preference eligibles.

EX. ORD. NO. 11787. APPEALS SYSTEM FOR EMPLOYEES

Ex. Ord. No. 11787, June 11, 1974, 39 F.R. 20675, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States, including sections 3301 and 7301 of title 5 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. Except when otherwise provided by statute, the appeals system established by the Civil Service Commission under chapter 77 of title 5 of the United States Code [this chapter], and section 22 of the Executive Order No. 11491 of October 29, 1969 [set out as a note under section 7301 of this title], shall constitute the sole system of appeal for an employee who is covered by that appeals system.

SEC. 2. Executive Order No. 10987, relating to agency systems for appeals from adverse action, is revoked.

SEC. 3. This order shall be effective on the 90th day after issuance and shall apply to all adverse actions effective on and after that day. However, an appeal timely filed from an adverse action effective prior to that day under an agency appeals system established pursuant to Executive Order No. 10987 shall be processed to completion under that system.

RICHARD NIXON.

Chapter 79.—SERVICES TO EMPLOYEES

§ 7901. Health service programs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 section 403j.

§ 7902. Safety programs.

EXECUTIVE ORDER NO. 10990

Ex. Ord. No. 10990, Feb. 5, 1962, 27 F.R. 1065, set out as a note under this section, which provided for the establishment of a Federal Safety Council, was superseded by Ex. Ord. No. 11612, July 26, 1971, 36 F.R. 13891, set out as a note under this section.

EXECUTIVE ORDER NO. 11612

Ex. Ord. No. 11612, July 26, 1971, 36 F.R. 13891, formerly set out as a note under this section, which related to occupational safety and health programs for federal employees, was superseded by Ex. Ord. 11807, Sept. 28, 1974, 39 F.R. 35559, set out as a note under this section.

EX. ORD. NO. 11807. OCCUPATIONAL SAFETY AND HEALTH PROGRAMS FOR FEDERAL EMPLOYEES

Ex. Ord. No. 11807, Sept. 28, 1974, 39 F.R. 35559, provided:

As the Nation's largest employer, the Federal Government has a special obligation to set an example for all employers by providing a safe and healthful working environment for its employees.

For more than three years, the Federal Government has been seeking to carry out these solemn responsibilities under the terms of Executive Order No. 11612, issued in 1971 and based upon the authorities granted by the landmark Occupational Safety and Health Act of 1970 [section 651 et seq. of Title 29] as well as section 7902(c) of title 5, United States Code.

Considerable progress has been achieved under the 1971 executive order, but it is now clear that even greater efforts are needed. It is therefore necessary that a new order be issued, reflecting this Nation's firm and renewed commitment to provide exemplary working conditions for those devoted to public service.

The provisions of this order are intended to ensure that each agency head is provided with all the guidance necessary to carry out an effective occupational safety and health program within the agency. Further, to keep the President abreast of progress, this order provides for detailed evaluations of the agencies' occupational safety and health programs by the Secretary of Labor and transmittal of those evaluations, together with agency comments, to the President. In addition, the Federal Safety Advisory Council on Occupational Safety and Health is continued because of its demonstrated value as an advisory body to the Secretary of Labor.

Experience has shown that agency heads desire and need more detailed guidance from the Secretary of Labor to make their occupational safety and health programs more effective. This order provides that the Secretary of Labor shall issue detailed guidelines and provide such further assistance as the agencies may request.

NOW, THEREFORE, by virtue of the authority vested in me by section 7902(c)(1) of title 5 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SCOPE OF THIS ORDER

SECTION 1. For the purposes of this order, the term "agency" means an Executive Department, as defined in 5 U.S.C. 101, or any employing unit or authority of the Government of the United States not within an Executive Department. This order applies to all agencies of the Executive Branch of the Government; and by agreement between the Secretary of Labor (hereinafter referred to as the Secretary) and the head of an agency of the Legislative or Judicial Branches of the Government, the provisions of this order may be made applicable to such agencies. In addition, by agreement between the Secretary of Labor and the head of any agency, and to the extent permitted by law, the provisions of this order may be extended to employees of agencies who are employed in geographic locations to which the Occupational Safety and Health Act of 1970 is not applicable.

DUTIES OF HEADS OF AGENCIES

SEC. 2. The head of each agency shall, after consultation with representatives of the employees thereof, establish and maintain an occupational safety and health pro-

gram meeting the requirements of section 19 of the Occupational Safety and Health Act (hereinafter referred to as to the act) [section 668 of Title 29]. In order to ensure that agency programs are consistent with the standards prescribed by section 6 of the act, [section 655 of Title 29], the head of each agency shall:

(1) Designate or appoint, to be responsible for the management and administration of the agency occupational safety and health program, and agency official with sufficient authority to represent effectively the interest and support of the agency head.

(2) Establish an occupational safety and health management information system, which shall include the maintenance of such records of occupational accidents, injuries, illnesses and their causes, and the compilation and transmittal of such reports based upon this information, as the Secretary may require pursuant to section 3 of this order.

(3) Establish procedures for the adoption of agency occupational safety and health standards consistent with the standards promulgated by the Secretary pursuant to section 6 of the act [section 655 of Title 29]; assure prompt attention to reports by employees or others of unsafe or unhealthful working conditions; assure periodic inspections of agency workplaces by personnel with sufficient technical competence to recognize unsafe and unhealthful working conditions in such workplaces; and assure prompt abatement of unsafe or unhealthful working conditions, including those involving facilities and/or equipment furnished by another Government agency, informing the Secretary of significant difficulties encountered in this regard.

(4) Provide adequate safety and health training for officials at the different management levels, including supervisory employees, employees responsible for conducting occupational safety and health inspections, and other employees. Such training shall include dissemination of information concerning the operation of the agency occupational safety and health program and the means by which each such person may participate and assist in the operation of that program.

(5) Submit to the Secretary on an annual basis a report containing such information as the Secretary shall prescribe.

(6) Cooperate with and assist the Secretary of Labor in the performance of his duties under section 19 of the act [section 668 of Title 29] and section 3 of this order.

(7) Observe the guidelines published by the Secretary pursuant to section 3 of this order, giving due consideration to the mission, size and organization of the agency.

DUTIES OF THE SECRETARY OF LABOR

SEC. 3. The Secretary shall provide leadership and guidance to the heads of agencies to assist them in fulfilling their occupational safety and health responsibilities by, among other means, taking the following actions:

(1) Issue detailed guidelines to assist agencies in establishing and operating effective occupational safety and health programs appropriate to their individual missions, sizes, and organizations. Such guidelines shall reflect the requirement of section 19 of the act [section 668 of Title 29] for consultation with empolyee representatives.

(2) Prescribe recordkeeping and reporting requirements to enable agencies to assist the Secretary in meeting the requirements imposed upon him by section 24 of the act [section 673 of Title 29].

(3) Provide such consultation to agencies as the Secretary deems necessary and appropriate to ensure that agency standards adopted pursuant to section 2 of this order are consistent with the safety and health standards adopted by the Secretary pursuant to section 6 of the act [section 655 of Title 29]; provide leadership and guidance to agencies in the adequate occupational safety and health training of agency personnel; and facilitate the exchange of ideas and information throughout the Government with respect to matters of occupational safety and health through such arrangements as the Secretary deems appropriate.

(4) Perform for agencies, where deemed necessary and appropriate (the following services, upon request and reimbursement for the expenses thereof: (a) Evaluate agency working conditions, and recommend to the agency head appropriate standards to be adopted pursuant to section 2 of this order to ensure that such working conditions are safe and healthful; (b) conduct inspections to identify unsafe or unhealthful working conditions, and provide assistance to correct such conditions; (c) train appropriate agency safety and health personnel.

(5) Evaluate the occupational safety and health programs of agencies, and submit to the President reports of such evaluations, together with agency responses thereto. These evaluations shall be conducted at least once annually for agencies employing more than 1,000 persons within the geographic locations to which the act applies, and as the Secretary deems appropriate for all other agencies, through such headquarters or field reviews as the Secretary deems necessary.

(6) Submit to the President each year a summary report of the status of the Federal agency occupational safety and health program, as well as analyses of individual agency progress and problems in correcting unsafe and unhealthful working conditions, together with recommendations for improving their performance.

FEDERAL ADVISORY COUNCIL ON OCCUPATIONAL SAFETY AND HEALTH

SEC. 4. (a) The Federal Advisory Council on Occupational Safety and Health, established pursuant to Executive Order No. 11612, is hereby continued. It shall advise the Secretary in carrying out responsibilities under this order. This Council shall consist of fifteen members appointed by the Secretary and shall include representatives of Federal agencies and of labor organizations representing employees. At least five members shall be representatives of such labor organizations. The members shall serve for three-year terms with the terms of five members expiring each year, provided that this Council is renewed every two years in accordance with the Federal Advisory Committee Act [set out in the Appendix to this title]. The members of the Federal Advisory Council on Occupational Safety and Health established pursuant to Executive Order No. 11612 shall be deemed to be its initial members under this order, and their terms shall expire in accordance with the terms of their appointments.

(b) The Secretary, or a designee, shall serve as the Chairman of the Council, and shall prescribe such rules for the conduct of its business as he deems necessary and appropriate.

(c) The Secretary shall make available necessary office space and furnish the Council necessary equipment, supplies, and staff services, and shall perform such functions with respect to the Council as may be required by the Federal Advisory Committee Act [set out in the Appendix to this title].

EFFECT ON OTHER POWERS AND DUTIES

SEC. 5. Nothing in this order shall be construed to impair or alter the powers and duties of the Secretary or the heads of other Federal agencies pursuant to section 19 of the Occupational Safety and Health Act of 1970 [section 668 of Title 29], sections 7901, 7902, and 7903 of title 5 of the United States Code, or any other provision of law, nor shall it be construed to alter the provisions of Executive Order No. 11491, as amended, Executive Order No. 11636 [set out as a note under section 7301 of this title], or other provisions of law providing for collective bargaining agreements and procedures. Matters of official leave for employee representatives involved in activities pursuant to this order shall be determined between each agency and these representatives pursuant to the procedures under Executive Order No. 11491, as amended, Executive Order No. 11636 [set out as a note under section 7301 of this title], or applicable collective bargaining agreements.

TERMINATION OF EXISTING ORDER

SEC. 6. Executive Order No. 11612 of July 26, 1971, is hereby superseded.

GERALD R. FORD.

EXTENSION OF TERM OF FEDERAL ADVISORY COUNCIL ON OCCUPATIONAL SAFETY AND HEALTH

Term of the Federal Advisory Council on Occupational Safety and Health extended until Jan. 5, 1977, unless

terminated sooner, see Ex. Ord. No. 11827, Jan. 4, 1975, 40 F.R. 1217, set out as a note under section 14 of Appendix I of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 668.

Subpart G.—Insurance and Annuities

Chapter 81.—COMPENSATION FOR WORK INJURIES

SUBCHAPTER I.—GENERALLY

Sec.
8118. Election to use annual or sick leave.[1]
8119. Notice of injury or death.
8151. Civil service retention rights.

AMENDMENTS

1974—Pub. L. 93–416, §§ 12(b), 23(a), Sept. 7, 1974, 88 Stat. 1146, 1150, substituted in item 8119 "Notice of injury or death." for "Notice of injury; failure to give.", and added item 8151.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 16 sections 565a–2, 1703; title 38 sections 1685, 4107, 4118; title 30 section 922.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in sections 31–746, 36–504 of the District of Columbia Code.

SUBCHAPTER I.—GENERALLY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2105, 3373, 3374, 3582, 5595, 8191, 8192, 8332, 8337, 8705, 8706, 8901 of this title; title 2 section 31b–5; title 7 section 1507; title 16 sections 18i, 558c, 831b; title 18 sections 292, 1920, 1922; title 22 sections 1079d, 1079o, 1081, 1091, 2504; title 25 section 450l; title 29 section 926; title 33 section 947; title 38 section 417; title 39 section 1005; title 40 section 290; title 42 sections 2996d, 5055; title 50 App. sections 1291, 2004.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in sections 31–728, 31–1603, 31–1623, 36–502 of the District of Columbia Code.

§ 8101. Definitions.

For the purpose of this subchapter—

(1) "employee" means—

* * * * *

(D) an individual employed by the government of the District of Columbia;

(E) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838); and

(F) an individual selected pursuant to chapter 121 of title 28, United States Code, and serving as a petit or grand juror and who is otherwise an employee for the purposes of this subchapter as defined by paragraphs (A), (B), (C), (D), and (E) of this subsection;

but does not include—

* * * * *

(2) "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropracters, and osteopathic practitioners within the scope of their practice as defined by State law. The term "physician" includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist, and subject to regulation by the Secretary;

(3) "medical, surgical, and hospital services and supplies" includes services and supplies by podiatrists, dentists, clinical psychologists, optometrists, chiropractors, osteopathic practitioners and hospitals within the scope of their practice as defined by State law. Reimbursable chiropractic services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist, and subject to regulation by the Secretary;

* * * * *

(5) "injury" includes, in addition to injury by accident, a disease proximately caused by the employment, and damage to or destruction of medical braces, artificial limbs, and other prosthetic devices which shall be replaced or repaired, and such time lost while such device or appliance is being replaced or repaired; except that eyeglasses and hearing aids would not be replaced, repaired, or otherwise compensated for, unless the damages or destruction is incident to a personal injury requiring medical services;

* * * * *

(11) "widower" means the husband living with or dependent for support on the decedent at the time of her death, or living apart for reasonable cause or because of her desertion;

* * * * *

(20) "organ" means a part of the body that performs a special function, and for purposes of this subchapter excludes the brain, heart, and back; and

(21) "United States medical officers and hospitals" includes medical officers and hospitals of the Army, Navy, Air Force, Veterans' Administration, and United States Public Health Service, and any other medical officer or hospital designated as a United States medical officer or hospital by the Secretary of Labor.

(As amended Pub. L. 93–416, § 1, Sept. 7, 1974, 88 Stat. 1143.)

AMENDMENTS

1974—Par. (1)(D). Pub. L. 93–416, § 1(g), deleted the word "and" after the semicolon.

Par. (1)(F). Pub. L. 93–416, § 1(a), added par. (1)(F).

Par. (2). Pub. L. 93–416, § 1(b), expanded the definition of "physician" to include podiatrists, dentists, clinical psychologists, optometrists and chiropracters, and added the provision limiting the extent to which chiropracters are included.

Par. (3). Pub. L. 93–416, § 1(c), included within "medical, surgical, and hospital services and supplies" those supplied by podiatrists, dentists, clinical psychologists, optometrists and chiropracters, and limited the reimbursable services of chiropracters.

Par. (5). Pub. L. 93–416, § 1(d), added to the definition of "injury" damage to or destruction of medical braces, artificial limbs and other prosthetic devices, and excepted eyeglasses and hearing aids unless damage or destruction is incidental to a personal injury requiring medical services.

Par. (11). Pub. L. 93–416, § 1(e), substituted "the husband living with or dependent for support on the decedent at the time of her death, or living apart for reasonable

[1] Section catchline does not reflect amendment of section by Pub. L. 93–416, § 11, Sept. 7, 1974, 88 Stat. 1145.

cause because of her desertion", for "one who, because of physical or mental disability, was wholly dependent for support on the employee at the time of her death" as the definition of "widower".

Pars. (20), (21). Pub. L. 93–416, § 1(f), added pars. (20) and (21).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 28(a) of Pub. L. 93–416 provided that: "Except as otherwise provided by this section this Act [enacting section 8151 of this title, amending this section and sections 8103, 8104, 8107, 8110, 8111, 8113, 8116, 8117, 8118, 8119, 8121, 8122, 8132, 8135, 8142, 8143, 8146a of this title, repealing section 3315a of this title, and enacting provisions set out as notes under this section and section 8116 of this title] shall take effect on the date of enactment [Sept. 7, 1974] and be applicable to any injury or death occurring on or after such effective date [Sept. 7, 1974]. The amendments made by sections 1(b) and (c) [amending this section], 2 [amending section 8103 of this title], 3 [amending section 8104 of this title], 7(a) and (b) [amending section 8111 of this title], 8(a) [amending section 8113 of this title], 8(b) [amending section 8143 of this title], 9 [amending section 8116 of this title], 16(a) [amending section 8133 of this title], 16(b) [amending section 8135 of this title], 17 [amending section 8133 of this title], 19 [amending section 8135 of this title], 20 [amending section 8135 of this title], 21 [amending section 8146a of this title], 22 [enacting section 8151 of this title], 24 [amending section 8146a of this title], and 25 [amending section 8147 of this title], shall be applicable to cases where the injury or death occurred prior to the date of enactment [Sept. 7, 1974] but the provisions of these sections shall be applicable only to a period beginning on or after the date of enactment [Sept. 7, 1974]."

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

STUDY AND REPORT TO CONGRESS BY SECRETARY OF LABOR OF PROVISIONS AND PROGRAMS UNDER SUBCHAPTER

Section 27 of Pub. L. 93–416 provided that:

"The Secretary of Labor shall conduct a study of the provisions of the Act [this subchapter] and the programs thereunder, which shall include, but is not necessarily limited to—

"(1) such hearings, research, and other activities as the Secretary of Labor deems necessary in order to enable him to formulate appropriate recommendations,

"(2) specific examintaion of the need of granting the Secretary of Labor the authority to increase the allowance for services of attendants under section 8111(a) of the Act [section 8111(a) of this title] above the maximum amount fixed under such section where exceptional circumstances exist,

"(3) an examination and evaluation of the effectiveness of the Act [this subchapter], and

"(4) recommendations regarding survivor benefits.

The Secretary of Labor shall report the results of such study, together with his findings and recommendations, to the Congress not later than 12 months after the date of the enactment of this Act [Sept. 7, 1974]."

PROCESSING OF CLAIMS FILED BY DISTRICT OF COLUMBIA EMPLOYEES

Pub. L. 93–198, title II, § 204(e), Dec. 24, 1973, 87 Stat. 783, provided that: "All functions of the Secretary under chapter 81 of title 5 of the United States Code, with respect to the processing of claims filed by employees of the government of the District for compensation for work injuries, are transferred to and shall be exercised by the Commissioner, effective the day after the day on which the District establishes an independent personnel system or systems."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in the sections 3373, 3374, 7902, 8110, 8118, 8133, 8191, 8192 of this title; title 16 sections 18i, 558c; title 22 section 2679a; title 29 section 926; title 30 section 902; title 42 section 5055.

§ 8103. Medical services and initial medical and other benefits.

(a) The United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation. These services, appliances, and supplies shall be furnished—

* * * * *

(3) by or on the order of United States medical officers and hospitals, or, at the employee's option, by or on order of physicians and hospitals designated or approved by the Secretary.

The employee may initially select a physician to provide medical services, appliances, and supplies, in accordance with such regulations and instructions as the Secretary considers necessary, and may be furnished necessary and reasonable transportation and expenses incident to the securing of such services, appliances, and supplies. These expenses, when authorized or approved by the Secretary, shall be paid from the Employees' Compensation Fund.

* * * * *

(As amended Pub. L. 93–416, § 2, Sept. 7, 1974, 88 Stat. 1144.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–416 substituted "at the employee's option" for "when this is not practicable", and deleted the word "private" preceding "physicians and hospitals" in par. (3) and, in the provision following par. (3), added authorization for the employee to initially select a physician in accordance with such regulations and instructions considered necessary by the Secretary.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–416 applicable to cases where the injury or death occurred prior to Sept. 7, 1974, but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8104, 8117, 8146 of this title.

§ 8104. Vocational rehabilitation.

(a) The Secretary of Labor may direct a permanently disabled individual whose disability is compensable under this subchapter to undergo vocational rehabilitation. The Secretary shall provide for furnishing the vocational rehabilitation services. In providing for these services, the Secretary, insofar as practicable, shall use the services or facilities of State agencies and corresponding agencies which cooperate with the Secretary of Health, Education, and Welfare in carrying out the purposes of chapter 4 of title 29, except to the extent that the Secretary of Labor provides for furnishing these services under section 8103 of this title. The cost of providing these services to individuals undergoing vocational rehabilitation under this section shall be paid from the Employees' Compensation Fund. However, in reimbursing a State or corresponding agency under an arrangement pursuant to this section the cost to the agency reimbursable in full under section 32(b)(1) of title 29 is excluded.

(b) Notwithstanding section 8106, individuals directed to undergo vocational rehabilitation by the Secretary shall, while undergoing such rehabilitation, receive compensation at the rate provided in sections 8105 and 8110 of this title, less the amount of any earnings received from remunerative employment, other than employment undertaken pursuant to such rehabilitation. (As amended Pub. L. 93–416, § 3, Sept. 7, 1974, 88 Stat. 1144.)

REFERENCES IN TEXT

"Chapter 4 of title 29", referred to in the text, refers to the Vocational Rehabilitation Act, act June 2, 1920, ch. 219, 41 Stat. 735, as amended. "Section 32(b)(1) of title 29", also referred to in the text (enacted Sept. 6, 1966), did not reflect amendment of section 32(b) by Pub. L. 89–333 § 2(a), Nov. 8, 1965, 79 Stat. 1282, which eliminated obsolete pars. (2) and (3) and redesignated par. (1) provisions as subsec. (b) and amended such subsection. Section 32(b) of title 29, refers to section 2(b) of act June 2, 1920, as amended. Such provisions were repealed by section 500(a) of Pub. L. 93–112, title V, Sept. 26, 1973, 87 Stat. 390, and pursuant to section 500(a) of Pub. L. 93–112, which also provides that references to the Vocational Rehabilitation Act in other provisions of law shall be deemed a reference to the Rehabilitation Act of 1973, and are now covered by sections 701 et seq. and 731(a), respectively, of Title 29, Labor.

AMENDMENTS

1974—Pub. L. 93–416 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–416 applicable to cases where the injury or death occurred prior to Sept. 7, 1974, but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8111, 8113, 8117 of this title.

§§ 8105, 8106.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 8104 of this title.

§ 8107. Compensation schedule.

(a) If there is permanent disability involving the loss, or loss of use, of a member or function of the body or involving disfigurement, the employee is entitled to basic compensation for the disability, as provided by the schedule in subsection (c) of this section, at the rate of 66⅔ percent of his monthly pay. The basic compensation is—

(1) payable regardless of whether the cause of the disability originates in a part of the body other than that member;

(2) payable regardless of whether the disability also involves another impairment of the body; and

(3) in addition to compensation for temporary total or temporary partial disability.

* * * * *

(c) The compensation schedule is as follows:

* * * * *

(22) For permanent loss or loss of use of any other important external or internal organ of the body as determined by the Secretary, proper and equitable compensation not to exceed 312 weeks' compensation for each organ so determined shall be paid in addition to any other compensation payable under this schedule.

(As amended Pub. L. 93–416, §§ 4, 5, Sept. 7, 1974, 88 Stat. 1144, 1145.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–416, § 4, substituted "involving the loss, or loss of use" for "involving the loss of use".

Subsec. (c). Pub. L. 93–416, § 5, added subpar. (22).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–416 effective Sept. 7, 1974, and applicable to any injury or death occurring on or after such effective date, see section 28(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8108, 8109, 8110, 8115, 8116 of this title; title 18 section 1921.

§ 8110. Augmented compensation for dependents.

(a) For the purpose of this section, "dependent" means—

* * * * *

(2) a husband, if—

(A) he is a member of the same household as the employee; or

(B) he is receiving regular contributions from the employee for his support; or

(C) the employee has been ordered by a court to contribute to his support;

* * * * *

(As amended Pub. L. 93–416, § 6, Sept. 7, 1974, 88 Stat. 1145.)

AMENDMENTS

1974—Subsec. (a)(2). Pub. L. 93–416 substituted provisions of subpars. (A), (B) and (C) for "wholly dependent on the employee for support because of his own physical or mental disability".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–416 effective Sept. 7, 1974, and applicable to any injury or death occurring on or after such effective date, see section 28(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8104, 8109, 8112 of this title; title 18 section 1921; title 30 section 902.

§ 8111. Additional compensation for services of attendants or vocational rehabilitation.

(a) The Secretary of Labor may pay an employee who has been awarded compensation an additional sum of not more than $500 a month, as the Secretary considers necessary, when the Secreary finds that the service of an attendant is necessary constantly because the employee is totally blind, or has lost the use of both hands or both feet, or is paralyzed and unable to walk, or because of other disability resulting from the injury making him so helpless as to require constant attendance.

(b) The Secretary may pay an individual undergoing vocational rehabilitation under section 8104 of this title additional compensation necessary for his maintenance, but not to exceed $200 a month. (As amended Pub. L. 93–416, § 7, Sept. 7, 1974, 88 Stat. 1145.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–416, § 7(a), substituted "$500" for "$300".

Subsec. (b). Pub. L. 93–416, § 7(b), substituted "$200" for "$100".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–416 applicable to cases where the injury or death occurred prior to Sept. 7, 1974, but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8112 of this title; title 18 section 1921.

§ 8113. Increase or decrease of basic compensation.

* * * * *

(b) If an individual without good cause fails to apply for and undergo vocational rehabilitation when so directed under section 8104 of this title, the Secretary, on review under section 8128 of this title and after finding that in the absence of the failure the wage-earning capacity of the individual would probably have substantially increased, may reduce prospectively the monetary compensation of the individual in accordance with what would probably have been his wage-earning capacity in the absence of the failure, until the individual in good faith complies with the direction of the Secretary. (As amended Pub. L. 93–416, § 8(a), Sept. 7, 1974, 88 Stat. 1145.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–416 redesignated former subsec. (c) as (b). Former subsec. (b), which authorized the Secretary to prospectively recompute compensation because of decreased wage earning power after age 70, aside from injury, was deleted.

Subsec. (c). Pub. L. 93–416 redesignated former subsec. (c) as (b).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–416 applicable to case where the injury or death occurred prior to Sept. 7, 1974, but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8101, 8143 of this title; title 18 section 1921; title 29 section 926; title 42 section 5055.

§ 8116. Limitations on right to receive compensation.

(a) While an employee is receiving compensation under this subchapter, or if he has been paid a lump sum commutation of installment payments until the expiration of the period during which the installment payments would have continued, he may not receive salary, pay, or remuneration of any type from the United States, except—

(1) in return for service actually performed;

(2) pension for service in the Army, Navy, or Air Force;

(3) other benefits administered by the Veterans' Administration unless such benefits are payable for the same injury or the same death; and

(4) retired pay, retirement pay, retainer pay, or equivalent pay for service in the Armed Forces or other uniformed services, subject to the reduction of such pay in accordance with section 5532(b) of title 5, United States Code.

* * * * *

(As amended Pub. L. 93–416, § 9(a), Sept. 7, 1974, 88 Stat. 1145.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 416, struck out "and" in cl. (1), substituted a semicolon for a period in cl. (2), and added cls. (3) and (4).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 9(b) of Pub. L. 93–416 provided that: "The amendment made by this section [amending subsec. (a) of this section] shall be effective with respect to disability or death occurring before or after the date of enactment of this Act [Sept. 7, 1974] and without regard to any election under section 8116(b) of the Act [subsec. (b) of this section]; but no payment shall be made by reason of such amendment for any period prior to the date of enactment of this Act [Sept. 7, 1974]."

§ 8117. Time of accrual of right.

An employee is not entitled to compensation for the first 3 days of temporary disability, except—

(1) when the disability exceeds 14 days;

* * * * *

(As amended Pub. L. 93–416, § 10, Sept. 7, 1974, 88 Stat. 1145.)

AMENDMENTS

1974—Pub. L. 93–416 substituted "14 days" for "21 days".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–416 effective Sept. 7, 1974, and applicable to any injury or death occurring on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8118 of this title.

§ 8118. Continuation of pay; election to use annual or sick leave.

(a) The United States shall authorize the continuation of pay of an employee, as defined in section 8101(1) of this title (other than those referred to in clause (B) or (E), who has filed a claim for a period of wage loss due to a traumatic injury with his immediate superior on a form approved by the Secretary of Labor within the time specified in section 8122(a)(2) of this title.

(b) Continuation of pay under this subchapter shall be furnished—

(1) without a break in time unless controverted under regulations of the Secretary;

(2) for a period not to exceed 45 days; and

(3) under accounting procedures and such other regulations as the Secretary may require.

(c) An employee may use annual or sick leave to his credit at the time the disability begins, but his compensation for disability does not begin, and the time periods specified by section 8117 of this title do not begin to run, until termination of pay as set forth in subsections (a) and (b) or the use of annual or sick leave ends.

(d) If a claim under subsection (a) is denied by the Secretary, payments under this section shall, at the option of the employee, be charged to sick or annual leave or shall be deemed overpayments of pay within the meaning of section 5584 of title 5, United States Code.

(e) Payments under this section shall not be considered a compensation as defined by section 8101(12) of this title. (As amended Pub. L. 93–416, § 11, Sept. 7, 1974, 88 Stat. 1145.)

AMENDMENTS

1974—Pub. L. 93–416 inserted in section catchline the reference to continuation of pay, added subsecs. (a), (b), (d) and (e), designated existing provisions as subsec. (c), and in subsec. (c) as so designated, substituted "until termination of pay as set forth in subsections (a) and (b) or the use of annual or sick leave ends" for "until the use of the annual or sick leave ends".

EFFECTIVE DATE OF 1974 AMENDMENT

Section 28(b) of Pub. L. 93–416 provided that: "Section 11 of this Act [amending this section] shall become effective 60 days from enactment [Sept. 7, 1974] and be applicable to any injury occurring on or after such effective date."

§ 8119. Notice of injury or death.

An employee injured in the performance of his duty, or someone on his behalf, shall give notice thereof. Notice of a death believed to be related to the employment shall be given by an eligible beneficiary specified in section 8133 of this title, or someone on his behalf. A notice of injury or death shall—

(a) be given within 30 days after the injury or death;

(b) be given to the immediate superior of the employee by personal delivery or by depositing it in the mail properly stamped and addressed;

(c) be in writing;

(d) state the name and address of the employee;

(e) state the year, month, day, and hour when and the particular locality where the injury or death occurred;

(f) state the cause and nature of the injury, or, in the case of death, the employment factors believed to be the cause; and

(g) be signed by and contain the address of the individual giving the notice.

(As amended Pub. L. 93–416, § 12(a), Sept. 7, 1974, 88 Stat. 1146.)

AMENDMENTS

1974—Pub. L. 93–416 substituted "or death" for "; failure to give" in section catchline, struck out designation of subsec. (a), redesignated cls. (1) to (7) as (a) to (g), and, as so redesignated, added provisions relating to notice of death and substituted "30 days" for "48 hours" in cl. (a), and struck out subsec. (b) relating to allowance of compensation.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–416 effective Sept. 7, 1974 and applicable to any injury or death occurring on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8122 of this title.

§ 8121. Claim.

Compensation under this subchapter may be allowed only if an individual or someone on his behalf makes claim therefor. The claim shall—

* * * * *

(3) be on a form approved by the Secretary;

* * * * *

(As amended Pub. L. 93–416, § 13, Sept. 7, 1974, 88 Stat. 1147.)

AMENDMENTS

1974—Par. (3). Pub. L. 93–416 substituted "approved" for "furnished".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–416 effective Sept. 7, 1974 and applicable to any injury or death occurring on or after Sept. 7, 1974, see section 23(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8146 of this title.

§ 8122. Time for making claim.

(a) An original claim for compensation for disability or death must be filed within 3 years after the injury or death. Compensation for disability or death, including medical care in disability cases, may not be allowed if claim is not filed within that time unless—

(1) the immediate superior had actual knowledge of the injury or death within 30 days. The knowledge must be such to put the immediate superior reasonably on notice of an on-the-job injury or death; or

(2) written notice of injury or death as specified in section 8119 of this title was given within 30 days.

* * * * *

(c) The timely filing of a disability claim because of injury will satisfy the time requirements for a death claim based on the same injury.

(d) The time limitations in subsections (a) and (b) of this section do not—

(1) begin to run against a minor until he reaches 21 years of age or has had a legal representative appointed; or

(2) run against an incompetent individual while he is incompetent and has no duly appointed legal representative; or

(3) run against any individual whose failure to comply is excused by the Secretary on the ground that such notice could not be given because of exceptional circumstances.

(As amended Pub. L. 93–416, § 14, Sept. 7, 1974, 88 Stat. 1147.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–416, § 14(1), substituted provisions requiring filing of claims for compensation within three years after death or disability, and setting forth conditions for waiver of filing within required time periods, for provisions requiring claim for death to be made within one year after death and for disability to be made within 60 days after injury and authorizing extension of time for good cause.

Subsec. (c). Pub. L. 93–416, § 14(2) substituted provisions relating to timeliness of claim for death when claim for injury was timely filed and death was based on same injury, for provisions relating to waiver of compliance with requirements for giving notice of injury and filing claim for compensation.

Subsec. (d). Pub. L. 93–416, § 14(3), substituted "(a) and (b)" for "(a)–(c)", and added cl. (3).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–416 effective Sept. 7, 1974, and applicable to any injury or death occurring on or after Sept. 7, 1974, see section 23(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8118, 8121 of this title.

§ 8132. Adjustment after recovery from a third person.

If an injury or death for which compensation is payable under this subchapter is caused under cir-

cumstances creating a legal liability in a person other than the United States to pay damages, and a beneficiary entitled to compensation from the United States for that injury or death receives money or other property in satisfaction of that liability as the result of suit or settlement by him or in his behalf, the beneficiary, after deducting therefrom the costs of suit and a reasonable attorney's fee, shall refund to the United States the amount of compensation paid by the United States and credit any surplus on future payments of compensation payable to him for the same injury. No court, insurer, attorney, or other person shall pay or distribute to the beneficiary or his designee the proceeds of such suit or settlement without first satisfying or assuring satisfaction of the interest of the United States. The amount refunded to the United States shall be credited to the Employees' Compensation Fund. If compensation has not been paid to the beneficiary, he shall credit the money or property on compensation payable to him by the United States for the same injury. However, the beneficiary is entitled to retain, as a minimum, at least one-fifth of the net amount of the money or other property remaining after the expenses of a suit or settlement have been deducted; and in addition to this minimum and at the time of distribution, an amount equivalent to a reasonable attorney's fee proportionate to the refund to the United States. (As amended Pub. L. 93–416, § 15, Sept. 7, 1974, 88 Stat. 1147.)

AMENDMENTS

1974—Pub. L. 93–416 made minor changes in phraseology and added provision prohibiting a court, etc., from distributing proceeds of suit or settlement without satisfying or assuring satisfaction of the interests of the United States.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–416 effective Sept. 7, 1974 and applicable to any injury or death occurring on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8147 of this title.

§ 8133. Compensation in case of death.

(a) If a death results from an injury sustained in the performance of duty, the United States shall pay a monthly compensation equal to a percentage of the monthly pay of the deceased employee in accordance with the following schedule:

(1) To the widow or widower, if there is no child, 50 percent.

(2) To the widow or widower, if there is a child, 45 percent and in addition 15 percent for each child not to exceed a total of 75 percent for the widow or widower and children.

(3) To the children, if there is no widow or widower, 40 percent for one child and 15 percent additional for each additional child not to exceed a total of 75 percent, divided among the children share and share alike.

(4) To the parents, if there is no widow, widower, or child, as follows:

(A) 25 percent if one parent was wholly dependent on the employee at the time of death and the other was not dependent to any extent;

(B) 20 percent to each if both were wholly dependent; or

(C) a proportionate amount in the discretion of the Secretary of Labor if one or both were partially dependent.

If there is a widow, widower, or child, so much of the percentages are payable as, when added to the total percentages payable to the widow, widower, and children, will not exceed a total of 75 percent.

(5) To the brothers, sisters, grandparents, and grandchildren, if there is no widow, widower, child, or dependent parent as follows:

(A) 20 percent if one was wholly dependent on the employee at the time of death;

(B) 30 percent if more than one was wholly dependent, divided among the dependents share and share alike; or

(C) 10 percent if no one is wholly dependent but one or more is partly dependent, divided among the dependents share and share alike.

If there is a widow, widower, or child, or dependent parent, so much of the percentages are payable as, when added to the total percentages payable to the widow, widower, children, and dependent parents, will not exceed a total of 75 percent.

(b) The compensation payable under subsection (a) of this section is paid from the time of death until—

(1) a widow, or widower dies or remarries before reaching age 60;

(2) a child, a brother, a sister, or a grandchild dies, marries, or becomes 18 years of age, or if over 18 and incapable of self-support becomes capable of self-support; or

(3) a parent or grandparent dies, marries, or ceases to be dependent.

Notwithstanding paragraph (2) of this subsection, compensation payable to or for a child, a brother or sister, or grandchild that would otherwise end because the child, brother or sister, or grandchild has reached 18 years of age shall continue if he is a student as defined by section 8101 of this title at the time he reaches 18 years of age for so long as he continues to be such a student or until he marries. A widow or widower who has entitlements to benefits under this title derived from more than one husband or wife shall elect one entitlement to be utilized.

* * * * *

(e) In computing compensation under this section, the monthly pay is deemed not less than the minimum rate of basic pay for GS–2. However, the total monthly compensation may not exceed—

(1) the monthly pay computed under section 8114 of this title, except for increases authorized by section 8146a of this title; or

* * * * *

(f) Notwithstanding any funeral and burial expenses paid under section 8134, there shall be paid a sum of $200 to the personal representative of a deceased employee within the meaning of section 8101(1) of this title for reimbursement of the costs of termination of the decedent's status as an employee of the United States. (As amended Pub. L. 93–416, §§ 16(a), 17, 18, Sept. 7, 1974, 88 Stat. 1147, 1149.)

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93–416, § 16(a), substituted "50" for "45".

Subsec. (a)(2). Pub. L. 93–416, § 16(a), substituted "45" for "40".

Subsec. (a)(3). Pub. L. 93–416, § 16(a), substituted "40" for "35".

Subsec. (b). Pub. L. 93–416, § 16(a), added "before reaching age 60" after "remarries" in par. (1), deleted par. (2) referring to widower who dies, remarries or becomes capable of self-support, redesignated pars. (3) and (4) as (2) and (3), respectively, changed the reference in closing paragraph from paragraph (3) of this subsection to paragraph (2) of this subsection, and added provision for election by widower or widow of benefits derived from more than one husband or wife.

Subsec. (e)(1). Pub. L. 93–416, § 17, added "except for increases authorized by section 8146a of this title; preceding "or".

Subsec. (f). Pub. L. 93–416, § 18, added subsec. (f).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by sections 16 (a) and (b) and 17 of Pub. L. 93–416 applicable to cases where the injury or death occurred prior to Sept. 7, 1974 but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

Amendment by section 18 of Pub. L. 93–416 effective on Sept. 7, 1974, and applicable to any injury or death occurring on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8109, 8119, 8135, 8138, 8141 of this title; title 18 section 1921; title 22 section 2679a.

§ 8134. Funeral expenses; transportation of body.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8109, 8133, 8146 of this title; title 38 section 907.

§ 8135. Lump-sum payment.

(a) The liability of the United States for compensation to a beneficiary in the case of death or of permanent total or permanent partial disability may be discharged by a lump-sum payment equal to the present value of all future payments of compensation computed at 4 percent true discount compounded annually if—

(1) the monthly payment to the beneficiary is less than $50 a month;

* * * * *

The probability of the death of the beneficiary before the expiration of the period during which he is entitled to compensation shall be determined according to the most current United States Life Tables, as developed by the United States Department of Health, Education, and Welfare, which shall be updated from time to time, but the lump-sum payment to a widow or widower of the deceased employee may not exceed 60 months' compensation. The probability of the happening of any other contingency affecting the amount or duration of compensation shall be disregarded.

(b) On remarriage before reaching age 60 a widow or widower entitled to compensation under section 8133 of this title, shall be paid a lump sum equal to twenty-four times the monthly compensation payment (excluding compensation on account of another individual) to which he was entitled immediately before the remarriage. (As amended Pub. L. 93–416, §§ 16(b), 19, 20, Sept. 7, 1974, 88 Stat. 1149.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–416, § 20, substituted provisions relating to use of the most current United States Life Tables, for provisions relating to determination by the American Experience Tables of Mortality.

Subsec. (a)(1). Pub. L. 93–416, § 19, substituted "$50" for "$5".

Subsec. (b). Pub. L. 93–416, § 16(b), added "before reaching age 60" following "On remarriage".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–416 applicable to cases where the injury or death occurred prior to Sept. 7, 1974, but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8137, 8337 of this title; title 22 section 1081.

§ 8139. Employees of the District of Columbia.

PROCESSING OF CLAIMS FILED BY DISTRICT OF COLUMBIA EMPLOYEES

See Pub. L. 93–198, title II, § 204(e), Dec. 24, 1973, 87 Stat. 783, set out as a note under section 8101 of this title.

§ 8142. Peace Corps volunteers.

* * * * *

(c) For the purpose of this subchapter—

* * * * *

(2) a volunteer leader referred to by section 2505 of title 22, or a volunteer with one or more minor children as defined in section 2504 of title 22, is deemed receiving monthly pay at the minimum rate for GS–11;

* * * * *

(As amended Pub. L. 93–416, § 23(b), Sept. 7, 1974, 88 Stat. 1150.)

AMENDMENTS

1974—Subsec. (c)(2). Pub. L. 93–416 added provision relating to a volunteer with one or more minor children.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–416 effective on Sept. 7, 1974, and applicable to any injury or death occurring on or after such effective date, see section 23(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5732 of this title.

§ 8143. Job Corps enrollees; volunteers in service to America.

(a) Subject to the provisions of this subsection, this subchapter applies to an enrollee in the Job Corps, except that compensation for disability does not begin to accrue until the day after the date on which the injured enrollee is terminated. In administering this subchapter for an enrollee covered by this subsection—

* * * * *

(2) section 8113 (a) of this title applies to an enrollee; and

* * * * *

(As amended Pub. L. 93–416, § 8(b), Sept. 7, 1974, 88 Stat. 1145.)

CODIFICATION

Part A of subchapter VIII of chapter 34 of title 42, referred to in subsec. (b), comprised sections 2992 to 2992b of title 42, and was repealed by Pub. L. 93–113, title VI, § 603, Oct. 1, 1973, 87 Stat. 417. Former provisions of sections 2992 to 2992b of title 42 are now covered by sections 4952 to 4955 and 5042(13)(A) of title 42.

AMENDMENTS

1974—Pub. L. 93–416 struck out ",(b)" following "section 8113 (a)".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–416 applicable to case where the injury or death occurred prior to Sept. 7, 1974, but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 926; title 42 sections 2727, 2994b.

§ 8145. Administration.

PROCESSING OF CLAIMS FILED BY DISTRICT OF COLUMBIA EMPLOYEES

See Pub. L. 93–198, title II, § 204(e), Dec. 24, 1973, 87 Stat. 783, set out as a note under section 8101 of this title.

§ 8146a. Cost-of-living adjustment of compensation.

(a) Each month the Secretary of Labor shall determine the percent change in the price index. Effective the first day of the month which begins after the price index change equals a rise of at least 3 percent for 3 consecutive months over the price index for the latest base month, compensation payable on account of disability or death which occurred more than 1 year before that first day shall be increased by the percent rise in the price index (calculated on the highest level of the price index during the 3 consecutive months) adjusted to the nearest one-tenth of 1 percent.

(b) The regular periodic compensation payments after adjustment under this section shall be fixed at the nearest dollar. However, the regular periodic compensation after adjustment shall reflect an increase of at least $1.

(c) This section shall be applicable to persons excluded by section 15 of the Federal Employees' Compensation Act Amendments of 1966 (Public Law 89–488) under the following statutes: Act of February 15, 1934 (48 Stat. 351); Act of June 26, 1936 (49 Stat. 2035); Act of April 8, 1935 (49 Stat. 115); Act of July 25, 1942 (56 Stat. 710); Public Law 84–955 (August 3, 1956); Public Law 77–784 (December 2, 1942); Public Law 84–879 (August 1, 1956); Public Law 80–896 (July 3, 1948); Act of September 8, 1959 (73 Stat. 469). Benefit payments to these persons shall initially be increased by the total percentage of the increases in the price index from the base month of July 1966, to the next most recent base month following the effective date of this subsection. (As amended Pub. L. 93–416, §§ 21, 24, Sept. 7, 1974, 88 Stat. 1149, 1150.)

REFERENCES IN TEXT

"Persons excluded by section 15 of the Federal Employees' Compensation Act Amendments of 1966", referred to in subsec. (c), means persons excluded by section 15 of Pub. L. 89–488, July 4, 1966, 80 Stat. 256, which was set out as a note under section 756 of former Title 5 prior to the 1966 revision of Title 5 by Pub. L. 89–554. Such section 15 of the Federal Employees' Compensation Act Amendments of 1966 directed that benefit increases mandated by the Federal Employees' Compensation Act Amendments of 1966 not apply to employees unless such employees fell within the definition of "employees" in section 40(b)(1) or (2) of the Federal Employees' Compensation Act [former section 790(b)(1) or (2) of Title 5]. As a result section 15 of the Federal Employees' Compensation Act Amendments of 1966 served to prohibit increases to persons to whom the benefits of the Federal Employees' Compensation Act had been extended over the years by Acts described in subsec. (c) as follows:

Act of February 15, 1934 (48 Stat. 351) which extended coverage to employees of the Federal Civil Works Administration and was classified to section 796 of former Title 5.

Act of June 26, 1936 (49 Stat. 2035) probably means Act of June 29, 1936 which extended coverage to certain W.W. I veterans and was set out as a note under former section 134 of Title 38.

Act of April 8, 1935 (49 Stat. 115) which extended coverage to certain emergency relief personnel, was classified to former sections 721 and 728 of Title 15.

Act of July 25, 1942 (56 Stat. 710) which extended coverage to certain personnel of the War Relocation Authority, was set out as a note under section 796 of former Title 5.

Public Law 84–955 (Aug. 3, 1956) which extended coverage to certain Civil Air Patrol personnel was set out as a note under section 760 of former Title 5.

Public Law 77–784 (December 2, 1942), which extended coverage to war risk hazards of certain employees of federal contractors is classified to section 1701 et seq. of Title 42.

Public Law 84–879 (August 1, 1956), which extended coverage to certain members of the Reserve Officers Training Corps of the Army, Navy, and Air Force, was classified to section 802 of former Title 5.

Public Law 80–896 (July 3, 1948) extended coverage to certain persons entitled to war claims and was classified to section 2001 et seq. of Title 50 App.

Act of September 8, 1959, (73 Stat. 469) which transferred from the Department of Commerce to the Department of Labor certain functions in respect to insurance benefits and disability payments to seamen for W.W. II service-connected injuries, death, or disability, was not classified to the Code.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–416, § 21, substituted "Effective the first day of the month" for "Effective the first day of the third month".

Subsec. (b). Pub. L. 93–416, § 21, substituted "regular periodic compensation payments" for "monthly compensation".

Subsec. (c). Pub. L. 93–416, § 24, added subsec. (c).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by sections 21 and 24 of Pub. L. 93–416 applicable to cases where the injury or death occurred prior to Sept. 7, 1974 but only to the period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8101, 8133 of this title.

§ 8147. Employees' Compensation Fund.

(a) There is in the Treasury of the United States the Employees' Compensation Fund which consists of sums that Congress, from time to time, may appropriate for or transfer to it, and amounts that otherwise accrue to it under this subchapter or other statute. The Fund is available without time limit for the payment of compensation and other benefits and expenses, except administrative expenses, authorized by this subchapter or any extension or application thereof, except as otherwise provided by this subchapter or other statute. The Secretary of Labor shall submit annually to the Office of Management and Budget estimates of appropriations necessary for the maintenance of the Fund. For the purpose of this subsection, "administrative expenses"

does not include expenses for legal services performed by or for the Secretary under sections 8131 and 8132 of this title.

* * * * *

(c) In addition to the contributions for the maintenance of the Employees' Compensation Fund required by this section, the United States Postal Service, or a mixed ownership corporation as defined by section 856 of title 31, or any other corporation or agency or instrumentality (or activity thereof) which is required by statute to submit an annual budget pursuant to or as provided by sections 841–869 of title 31, shall pay an additional amount for its fair share of the cost of administration of this subchapter as determined by the Secretary. With respect to these corporations, agencies, and instrumentalities, the charges billed by the Secretary under this section shall include an additional amount for these costs, which shall be paid into the Treasury as miscellaneous receipts from the sources authorized and in the manner otherwise provided by this section. (As amended Pub. L. 93–416, §§ 25, 26, Sept. 7, 1974, 88 Stat. 1150.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–416, § 26 substituted "Office of Management and Budget" for "Bureau of the Budget".

Subsec. (c). Pub. L. 93–416, § 25, added reference to the United States Postal Service.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by section 25 of Pub. L. 93–416 applicable to cases where the injury or death occurred prior to Sept. 7, 1974 but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

Amendment by section 26 of Pub. L. 93–416, effective Sept. 7, 1974, and applicable to any death or injury occurring on or after Sept. 7, 1974, see section 28 (a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

§ 8151. Civil service retention rights.

(a) In the event the individual resumes employment with the Federal Government, the entire time during which the employee was receiving compensation under this chapter shall be credited to the employee for the purposes of within-grade step increases, retention purposes, and other rights and benefits based upon length of service.

(b) Under regulations issued by the Civil Service Commission—

(1) the department or agency which was the last employer shall immediately and unconditionally accord the employee, if the injury or disability has been overcome within one year after the date of commencement of compensation or from the time compensable disability recurs if the recurrence begins after the injured employee resumes regular full-time employment with the United States, the right to resume his former or an equivalent position, as well as all other attendant rights which the employee would have had, or acquired, in his former position had he not been injured or disabled, including the rights to tenure, promotion, and safeguards in reductions-in-force procedures, and

(2) the department or agency which was the last employer shall, if the injury or disability is overcome within a period of more than one year after the date of commencement of compensation, make all reasonable efforts to place, and accord priority to placing, the employee in his former or equivalent position within such department or agency, or within any other department or agency.

(Added Pub. L. 93–416, § 22, Sept. 7, 1974, 88 Stat. 1149.)

EFFECTIVE DATE

Section applicable to cases where the injury or death occurred prior to Sept. 7, 1974, but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93–416, set out as a note under section 8101 of this title.

SUBCHAPTER III.—LAW ENFORCEMENT OFFICERS NOT EMPLOYED BY THE UNITED STATES

§ 8193. Administration.

* * * * *

(f) Appropriations.

There are authorized to be appropriated such sums as may be necessary to carry out this subchapter. (As amended Pub. L. 94–183, § 2(31), Dec. 31, 1975, 89 Stat. 1058.)

AMENDMENTS

1975—Subsec. (f). Pub. L. 94–183 redesignated subsec. (e), relating to appropriations, as subsec. (f).

Chapter 83.—RETIREMENT

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 25 section 4501; title 38 sections 4107, 4109, 4118; title 39 section 1005; title 42 section 2996d.

SUBCHAPTER II.—FORFEITURE OF ANNUITIES AND RETIRED PAY

§ 8312. Conviction of certain offenses.

* * * * *

(c) The following are the offenses to which subsection (a) of this section applies if the individual was convicted before, on, or after September 26, 1961:

(1) An offense within the purview of—

* * * * *

(C) section 783 (conspiracy and communication or receipt of classified information) of title 50.

* * * * *

(As amended Pub. L. 92–128, § 2(b), Sept. 25, 1971, 85 Stat. 348.)

AMENDMENTS

1971—Subsec (c)(1)(C). Pub. L. 92–128 deleted as applicable offenses under subsec. (a) of this section ", 822 (conspiracy or evasion of apprehension during internal security emergency), or 823 (aiding evasion or apprehension during internal security emergency)" following "classified information)".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8311, 8313, 8315, 8316, 8318, 8320 of this title.

SUBCHAPTER III.—CIVIL SERVICE RETIREMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 2 section 31b–5; title 7 section 331; title 10 sections 1450, 1452; title 11

section 68; title 12 section 2227; title 22 sections 2025, 2504; title 28 section 332.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in sections 1–254, 4–183b, 31–696a, 31–728, 31–1403, 31–1542, 31–1603, 31–1623 of the District of Columbia Code.

§ 8331. Definitions.

For the purpose of this subchapter—

(1) "employee" means—

* * * * *

(H) an individual employed by Gallaudet College;

(I) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838); and

(J) an alien (i) who was previously employed by the Government, (ii) who is employed full time by a foreign government for the purpose of protecting or furthering the interests of the United States during an interruption of diplomatic or consular relations, and (iii) for whose services reimbursement is made to the foreign government by the United States;

* * * * *

(3) "basic pay" includes—

* * * * *

(B) additional pay provided by—

(i) subsection (a) of section 60e–7 of title 2 and the provisions of law referred to by that subsection; and

(ii) sections 60e–8, 60e–9, 60e–10, 60e–11, 60e–12, 60e–13, and 60e–14 of title 2;

(C) premium pay under section 5545(c)(1) of this title; and

(D) with respect to a law enforcement officer, premium pay under section 5545(c)(2) of this title;

but does not include bonuses, allowances, overtime pay, military pay, pay given in addition to the base pay of the position as fixed by law or regulation except as provided by subparagraphs (B), (C), and (D) of this paragraph, retroactive pay under section 5344 of this title in the case of a retired or deceased employee, uniform allowances under section 5901 of this title, or lump-sum leave payments under subchapter VI of chapter 55 of this title. For an employee paid on a fee basis, the maximum amount of basic pay which may be used is $10,000;

(4) "Average pay" means the largest annual rate resulting from averaging an employee's or Member's rates of basic pay in effect over any 3 consecutive years of creditable service or, in the case of an annuity under subsection (d) or (e)(1) of section 8341 of this title based on service of less than 3 years, over the total service, with each rate weighted by the time it was in effect;

* * * * *

(18) "Fund balance" means the sum of—

(A) the investments of the Fund calculated at par value; and

(B) the cash balance of the Fund on the books of the Treasury;

(19) "unfunded liability" means the estimated excess of the present value of all benefits payable from the Fund to employees and Members, and former employees and Members, subject to this subchapter, and to their survivors, over the sum of—

* * * * *

(C) the Fund balance as of the date the unfunded liability is determined; and

(20) "law enforcement officer" means an employee, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purpose of this paragraph, "detention" includes the duties of—"

(A) employees of the Bureau of Prisons and Federal Prison Industries, Incorporated;

(B) employees of the Public Health Service assigned to the field service of the Bureau of Prisons or of the Federal Prison Industries, Incorporated;

(C) employees in the field service at Army or Navy disciplinary barracks or at confinement and rehabilitation facilities operated by any of the armed forces; and

(D) employees of the Department of Corrections of the District of Columbia, its industries and utilities;

whose duties in connection with individuals in detention suspected or convicted of offenses against the criminal laws of the United States or of the District of Columbia or offenses against the punitive articles of the Uniformed Code of Military Justice (chapter 47 of title 10) require frequent (as determined by the appropriate administrative authority with the concurrence of the Commission) direct contact with these individuals in their detention, direction, supervision, inspection, training, employment, care, transportation, or rehabilitation; and

(21) "firefighter" means an employee, the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an employee engaged in this activity who is transferred to a supervisory or administrative position.

(As amended Pub. L. 92–352, title I, § 105(a), July 13. 1972, 86 Stat. 490; Pub. L. 93–350, § 2, July 12, 1974, 88 Stat. 355; Pub. L. 94–183, § 2(38), Dec. 31, 1975, 89 Stat. 1058.)

AMENDMENTS

1975—Par. (4). Pub. L. 94–183 deleted provision relating to member's option of having average pay computed from averaging rates of basic pay in effect over all periods of member's service after August 2, 1946.

1974—Par. (3). Pub. L. 93–350, § 2(a), added subpar. (D) and inserted reference to subpar. (D) in subpar. (C).

Pars. (20), (21). Pub. L. 93–350, § 2(b), added pars. (20) and (21).

1972—Par. (1)(J). Pub. L. 92–352 added par. (1)(J).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of par. (3) by Pub. L. 93–350 effective at the beginning of the first applicable pay period which begins after Dec. 31, 1974, and enactment of pars. (20)

and (21) by Pub. L. 93–350 effective July 12, 1974, see section 7 of Pub. L. 93–350, set out as a note under section 3307 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 105(b) of Pub. L. 92–352 provided that: "Subsection (a) of this section [adding subpar. (1)(J) of this section] shall become effective on the first day of the second month which begins after its enactment [July 13, 1972]."

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

SAVINGS PROVISIONS

Section 105(c) of Pub. L. 92–352 provided that: "The amendments made by such subsection (a) [which added subpar. (1)(J) of this section] shall not apply in the cases of persons retired or otherwise separated prior to the effective date established under subsection (b) of this section [see Effective Date of 1972 Amendment note above], and the rights of such persons and their survivors shall continue in the same manner and to the same extent as if such amendments had not been enacted."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3307, 3323, 8332, 8344, 8347, 8701, 8901 of this title; title 12 section 1723a; title 26 section 7447.

§ 8332. Creditable service.

(a) The total service of an employee or Member is the full years and twelfth parts thereof, excluding from the aggregate the fractional part of a month, if any.

(b) The service of an employee shall be credited from the date of original employment to the date of separation on which title to annuity is based in the civilian service of the Government. Credit may not be allowed for a period of separation from the service in excess of 3 calendar days. The service includes—

* * * * *

(3) subject to section 8334(c) and 8339(i) of this title, service performed before July 10, 1960, as an employee of a county committee established under section 590h(b) of title 16 or of a committee or an association of producers described by section 610(b) of title 7;

* * * * *

(7) a period of service of a volunteer under part A of title VIII of the Economic Opportunity Act of 1964, or a period of service of a full-time volunteer enrolled in a program of at least one year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 only if he later becomes subject to this subchapter;

(8) subject to section 8334(c) and 8339(i) of this title, service performed after February 18, 1929, and before noon on January 3, 1971, as a United States Capitol Guide; and

(9) subject to sections 8334(c) and 8339(i) of this title, service as a substitute teacher for the government of the District of Columbia after July 1, 1955, if such service is not credited for benefits under any other retirement system established by a law of the United States.

The Civil Service Commission shall accept the certification of the Secretary of Agriculture or his designee concerning service for the purpose of this subchapter of the type performed by an employee named by paragraph (3) of this subsection. The Civil Service Commission shall accept the certification of the Capitol Guide Board concerning service for the purpose of this subchapter of the type described in paragraph (8) of this subsection and performed by an employee. For the purpose of paragraph (5) of this subsection—

* * * * *

(As amended Pub. L. 92–297, § 7(1), May 16, 1972, 86 Stat. 144; Pub. L. 92–454, § 1, Oct. 2, 1972, 86 Stat. 760; Pub. L. 93–113, title VI, § 602, Oct. 1, 1973, 87 Stat. 417; Pub. L. 94–183, § 2 (32), (33), (39), Dec. 31, 1975, 89 Stat. 1058, 1059.)

REFERENCES IN TEXT

Part A of the Economic Opportunity Act of 1964, referred to in subsecs. (b)(7) and (j), was repealed by section 603 of Pub. L. 93–113, was formerly classified to sections 2992 to 2992b of Title 42, and is now covered by section 4952 to 4955 and 5042(13)(A) of Title 42, The Public Health and Welfare.

Part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, referred to in subsec. (b)(7), is classified to sections 4951 et seq., 4971 et seq., and 4991 et seq. of Title 42, The Public Health and Welfare.

AMENDMENTS

1975—Subsec. (b)(7). Pub. L. 94–183, § 2(39), deleted "(— U.S.C. —)" following "Domestic Volunteer Service Act of 1973".

Subsec. (b)(8). Pub. L. 94–183, § 2(32), substituted "after February 18, 1929, and before noon on January 3, 1971" for "on and after February 19, 1929, and prior to the effective date of section 442 of the Legislative Reorganization Act of 1970".

Subsec. (b)(9). Pub. L. 94–183, § 2(33), substituted "8339(i)" for "8339(h)".

1973—Subsec. (b)(7). Pub. L. 93–113 included period of service of a full-time volunteer enrolled in a program of at least one year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973.

1972—Subsec. (b). Pub. L. 92–454 added cl. (9).

Subsec. (b). Pub. L. 92–297 substituted "8339(i)" for "8339(h)" in clauses (3) and (8).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–297 effective on the ninetieth day after May 16, 1972, see section 10 of Pub. L. 92–297, set out as a note under section 3381 of this title.

DISTRICT OF COLUMBIA SUBSTITUTE TEACHERS

Section 2 of Pub. L. 92–454 provided that: "An annuity or survivor annuity based on the service of an employee or annuitant who performed service described in section 1 of this Act [subsec. (b)(9) of this section] shall, upon application to the Civil Service Commission, be recomputed, effective on the first day of the first month following the date of enactment of this Act [Oct. 2, 1972], in accordance with section 1 of this Act [subsec. (b)(9) of this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6303, 8331, 8345 of this title; title 25 section 450l; title 26 section 7448; title 38 section 4114.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 11–1562, 11–1564, 11–1567, 11–1568, 31–1403 of the District of Columbia Code.

§ 8333. Eligibility for annuity.

* * * * *

(c) A Member or his survivor is eligible for an annuity under this subchapter only if the amounts named by section 8334 of this title have been deducted or deposited with respect to his last 5 years of civilian service, or, in the case of a survivor annuity

under section 8341 (d) or (e)(1) of this title, with respect to his total service. (As amended Pub. L. 94–183, § 2(34), Dec. 31, 1975, 89 Stat. 1058.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 94–183 substituted "of this title" for "of title 5" and "of this title" for "of this chapter".

SECTION REFERRED TO IN D.C. CODE

This section is refered to in section 31–1403 of the District of Columbia Code.

§ 8334. Deductions, contributions, and deposits.

(a)(1) The employing agency shall deduct and withhold 7 percent of the basic pay of an employee, 7½ percent of the basic pay of a Congressional employee, a law enforcement officer, and a firefighter, and 8 percent of the basic pay of a Member. An equal amount shall be contributed from the appropriation or fund used to pay the employee or, in the case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment. When an employee in the legislative branch is paid by the Clerk of the House of Representatives, the Clerk may pay from the contingent fund of the House the contribution that otherwise would be contributed from the appropriation or fund used to pay the employee.

* * * * *

(c) Each employee or Member credited with civilian service after July 31, 1920, for which retirement deductions or deposits have not been made, may deposit with interest an amount equal to the following percentages of his basic pay received for that service:

*	*	*
Law enforcement officer for law enforcement service and firefighter for firefighter service.	2½	August 1, 1920, to June 30, 1926.
	3½	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6½	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to December 31, 1974.
	7½	After December 31, 1974.

(d) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which he may be allowed credit under this subchapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

* * * * *

(g) Deposit may not be required for—

* * * * *

(5) days of unused sick leave credited under section 8339(m) of this title.

* * * * *

(As amended Pub. L. 92–297, § 7(2), May 16, 1972, 86 Stat. 144; Pub. L. 93–350, § 3, July 12, 1974, 88 Stat. 356; Pub. L. 94–126, §§ 1(a), 2(a), Nov. 12, 1975, 89 Stat. 679.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 94–126, § 1(a), struck out last sentence relating to deposits for periods of creditable service for civil service retirement purposes, the sentence providing that the deposit with respect to a period of service referred to in section 8332(b)(6) of this title performed before Jan. 1, 1969, shall be an amount equal to 55 percent of a deposit computed in accordance with such provisions.

Subsec. (g)(5). Pub. L. 94–126, § 2(a), substituted reference to "section 8339(m) of this title" for "section 8339(n) of this title".

1974—Subsec. (a)(1). Pub. L. 93–350, § 3(a), inserted "a law enforcement officer, and a firefighter," following "Congressional employee,".

Subsec. (c). Pub. L. 93–350, § 3(b), added schedule for law enforcement officer for law enforcement service and firefighter for firefighter service.

1972—Subsec. (g)(5). Pub. L. 92–297 substituted "section 8339(n)" for "section 8339(m)".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 3 of Pub. L. 94–126 provided that: "The amendments made by the first section of this Act [to this section and sections 8339 and 8345 of this title], shall become effective as of January 1, 1969, except that such amendments shall not apply to a person who, on the date of enactment of this Act [Nov. 12, 1975], is receiving or is entitled to receive benefits under any retirement system established by the United States or any instrumentality thereof, unless such person requests, in writing, the office which administers his retirement system to apply such amendments to him. Any additional benefits payable pursuant to such a written request shall commence on the first day of the month [December] following the date of the enactment of this Act [Nov. 12, 1975]."

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–350 effective at the beginning of the first applicable pay period which begins after Dec. 31, 1974, see section 7 of Pub. L. 93–350, set out as a note under section 3307 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–297 effective on the ninetieth day after May 16, 1972, see section 10 of Pub. L. 92–297, set out as a note under section 3381 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8331, 8332, 8333, 8339, 8342, 8344 of this title; title 12 sections 1723a, 2227; title 28 sections 611, 627, 634; title 40 section 881.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 11–1564, 11–1568, 31–1403 of the District of Columbia Code.

§ 8335. Mandatory separation.

* * * * *

(f) An air traffic controller shall be separated from the service on the last day of the month in which he becomes 56 years of age. The Secretary of Transportation, under such regulations as he may prescribe, may exempt a controller having exceptional skills and experience as a controller from the automatic separation provisions of this subsection until that controller becomes 61 years of age. The Secretary of Transportation shall notify the controller in writing of the date of separation at least 60 days before that date. Action to separate the controller is not effective, without the consent of the controller, until the last day of the month in which the 60-day notice expires.

(g) A law enforcement officer or a firefighter who is otherwise eligible for immediate retirement under section 8336(c) of this title shall be separated from the service on the last day of the month in which

he becomes 55 years of age or completes 20 years of service if then over that age. The head of the agency, when in his judgment the public interest so requires, may exempt such an employee from automatic separation under this subsection until that employee becomes 60 years of age. The employing office shall notify the employee in writing of the date of separation at least 60 days in advance thereof. Action to separate the employee is not effective, without the consent of the employee, until the last day of the month in which the 60-day notice expires. (As amended Pub. L. 92–297, § 4, May 16, 1972, 86 Stat. 144; Pub. L. 93–350, § 4, July 12, 1974, 88 Stat. 356.)

AMENDMENTS

1974—Subsec. (g). Pub. L. 93–350 added subsec. (g).
1972—Subsec. (f). Pub. L. 92–297 added subsec. (f).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–350 effective Jan. 1, 1978, see section 7 of Pub. L. 93–350, set out as a note under section 3307 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–297 effective on the ninetieth day after May 16, 1972, see section 10 of Pub. L. 92–297, set out as a note under section 3381 of this title.

NONAPPLICABILITY OF SUBSEC. (f) TO AIR TRAFFIC CONTROLLERS APPOINTED BEFORE MAY 16, 1972

Section 8 of Pub. L. 92–297 provided that: "Section 8335 (f) of title 5, United States Code, as added by this Act [subsec. (f) of this section], does not apply to a person appointed as an air traffic controller by the Department of Transportation before the date of enactment of this Act [May 16, 1972]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8339 of this title; title 26 section 7447.

§ 8336. Immediate retirement.

* * * * *

(c) An employee who is separated from the service after becoming 50 years of age and completing 20 years of service as a law enforcement officer or firefighter, or any combination of such service totaling at least 20 years, is entitled to an annuity.

(d) An employee who is separated from the service—

(1) involuntarily, except by removal for cause on charges of misconduct or delinquency; or

(2) voluntarily, during a period when the agency in which he is employed is undergoing a major reduction in force, as determined by the Commission, and who is serving in such geographic areas as may be designated by the Commission;

after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity.

(e) An employee who is voluntarily or involuntarily separated from the service, except by removal for cause on charges of misconduct or delinquency, after completing 25 years of service as an air traffic controller or after becoming 50 years of age and completing 20 years of service as an air traffic controller, is entitled to an annuity.

(f) An employee who is separated from the service after becoming 62 years of age and completing 5 years of service is entitled to an annuity.

(g) A Member who is separated from the service after becoming 62 years of age and completing 5 years of civilian service or after becoming 60 years of age and completing 10 years of Member service is entitled to an annuity. A Member who is separated from the service after becoming 55 years of age (but before becoming 60 years of age) and completing 30 years of service is entitled to a reduced annuity. A Member who is separated from the service, except by resignation or expulsion, after completing 25 years of service or after becoming 50 years of age and (1) completing 20 years of service or (2) serving in 9 Congresses is entitled to an annuity.

(h) An annuity or reduced annuity authorized by this section is computed under section 8339 of this title. (As amended Pub. L. 92–297, § 5, May 16, 1972, 86 Stat. 144; Pub. L. 92–382, Aug. 14, 1972, 86 Stat. 539; Pub. L. 93–39, June 12, 1973, 87 Stat. 73; Pub. L. 93–350, § 5, July 12, 1974, 88 Stat. 356; Pub. L. 94–183, § 2(40), (41), Dec. 31, 1975, 89 Stat. 1059.)

AMENDMENTS

1975—Subsec. (d). Pub. L. 94–183, § 2(40), substituted "an" for "a reduced" following "is entitled to".

Subsec. (g). Pub. L. 94–183, § 2(41), substituted "an" for "a reduced" following "is entitled to".

1974—Subsec. (c). Pub. L. 93–350 substituted provisions granting annuity entitlement to employees separated from the service after becoming 50 years of age and completing 20 years of service as a law enforcement officer or firefighter or any combination of such service totaling at least 20 years for provisions requiring the head of the employing agency to recommend, and the Civil Service Commission to approve, the retirement of an otherwise eligible employee requiring the agency and the Commission to consider the degree of hazard the employee was subjected to in the performance of his duties, and defining the term "detention" as used in the description the activities of qualifying employees.

1973—Subsec. (d). L. 93–39 reenacted existing provisions, designated part of such provisions as item (1) and added item (2).

1972—Subsec. (c). Pub. L. 92–382 added employees performing work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment for the purpose of retirement benefits.

Subsec. (e). Pub. L. 92–297, § 5(1), (2) added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 92–297, § 5(1), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 92–297, § 5(1) redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 92–297, § 5(1) redesignated subsec. (g) as (h).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–350 effective July 12, 1974, see section 7 of Pub. L. 93–350, set out as a note under section 3307 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–297 effective on the ninetieth day after May 16, 1972, see section 10 of Pub. L. 92–297, set out as a note under section 3381 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3381, 3382, 8335, 8339 of this title.

§ 8338. Deferred retirement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8340 of this title.

§ 8339. Computation of annuity.

* * * * *

(d) The annuity of an employee retiring under section 8335(g) or 8336(c) of this title is—

(A) 2½ percent of his average pay multiplied by so much of his total service as does not exceed 20 years; plus

(B) 2 percent of his average pay multiplied by so much of his total service as exceeds 20 years.

(e) The annuity of an employee retiring under section 8336(e) of this title is computed under subsection (a) of this section. That annuity may not be less than 50 percent of the average pay of the employee.

(f) The annuity computed under subsections (a)–(e) of this section may not exceed 80 percent of—

(1) the average pay of the employee; or

(2) the greatest of—

(A) the final basic pay of the Member;

(B) the average pay of the Member; or

(C) the final basic pay of the appointive position of a former Member who elects to have his annuity computed or recomputed under section 8344(b)(1) of this title.

(g) The annuity of an employee or Member retiring under section 8337 of this title is at least the smaller of—

(1) 40 percent of his average pay; or

(2) the sum obtained under subsections (a)–(c) of this section after increasing his service of the type last performed by the period elapsing between the date of separation and the date he becomes 60 years of age.

(h) The annuity computed under subsections (a), (b), and (f) of this section for an employee retiring under section 8336(d) of this title is reduced by $\frac{1}{6}$ of 1 percent for each full month the employee is under 55 years of age at the date of separation. The annuity computed under subsections (c) and (f) of this section for a Member retiring under the second or third sentence of section 8336(g) of this title or the third sentence of section 8338(b) of this title is reduced by $\frac{1}{12}$ of 1 percent for each full month not in excess of 60 months, and $\frac{1}{6}$ of 1 percent for each full month in excess of 60 months the Member is under 60 years of age at the date of separation.

(i) The annuity computed under subsections (a)–(h) of this section is reduced by 10 percent of a deposit described by section 8334(c) of this title remaining unpaid, unless the employee or Member elects to eliminate the service involved for the purpose of annuity computation.

(j) The annuity computed under subsections (a)–(i) of this section for a married employee or Member retiring under this subchapter, or any portion of that annuity designated in writing for the purpose of section 8341(b) of this title by the employee or Member at the time of retirement, is reduced by 2½ percent of so much thereof as does not exceed $3,600 and by 10 percent of so much thereof as exceeds $3,600, unless the employee or Member notifies the Civil Service Commission in writing at the time of retirement that he does not desire any spouse surviving him to receive an annuity under section 8341(b) of this title. An annuity which is reduced under this subsection or any similar prior provision of law shall, for each full month during which a retired employee or Member is not married, be recomputed and paid as if the annuity had not been so reduced. Upon remarriage of the retired employee or Member, the annuity shall be reduced by the same percentage reductions which were in effect at the time of retirement.

(k)(1) At the time of retiring under section 8336 or 8338 of this title, an unmarried employee or Member who is found to be in good health by the Commission may elect a reduced annuity instead of an annuity computed under subsections (a)–(i) of this section and name in writing an individual having an insurable interest in the employee or Member to receive an annuity under section 8341(c) of this title after the death of the retired employee or Member. The annuity of the employee or Member making the election is reduced by 10 percent, and by 5 percent for each full 5 years the individual named is younger than the retiring employee or Member. However, the total reduction may not exceed 40 percent.

(2) An employee or Member, who is unmarried at the time of retiring under a provision of law which permits election of a reduced annuity with a survivor annuity payable to his spouse and who later marries, may irrevocably elect, in a signed writing received in the Commission within 1 year after he marries, a reduction in his current annuity as provided in subsection (j) of this section. His reduced annuity is effective the first day of the month after his election is received in the Commission. The election voids prospectively any election previously made under paragraph (1) of this subsection.

(l) The annuity computed under subsections (a)–(k) of this section for an employee who is a citizen of the United States is increased by $36 for each year of service in the employ of—

(1) the Alaska Engineering Commission, or The Alaska Railroad, in Alaska between March 12, 1914, and July 1, 1923; or

(2) the Isthmian Canal Commission, or the Panama Railroad Company, on the Isthmus of Panama between May 4, 1904, and April 1, 1914.

(m) In computing any annuity under subsections (a)–(e) of this section, the total service of an employee who retires on an immediate annuity or dies leaving a survivor or survivors entitled to annuity includes, without regard to the limitations imposed by subsection (f) of this section, the days of unused sick leave to his credit under a formal leave system, except that these days will not be counted in determining average pay or annuity eligible under this subchapter. (As amended Pub. L. 92–297, §§ 6, 7(3), May 16, 1972, 86 Stat. 144; Pub. L. 93–260, § 2(a), Apr. 9, 1974, 88 Stat. 76; Pub. L. 93–350, § 6, July 12, 1974, 88 Stat. 356; Pub. L. 93–474, § 1, Oct. 26, 1974, 88 Stat. 1438; Pub. L. 94–126, § 1(b), Nov. 12, 1975, 89 Stat. 679.)

AMENDMENTS

1975—Subsec. (m). Pub. L. 94–126 struck out subsec. (m) provisions which required that 45 per centum of each year, or fraction thereof, of service referred to in section 8332(b)(6) which was performed prior to the effective date of the National Guard Technicians Act of 1968, be disregarded in determining service for the purpose of computing an annuity under each paragraph of this section, and redesignated former subsec. (n) as (m).

Subsec. (n). Pub. L. 94–126 redesignated former subsec. (n) as (m).

1974—Subsec. (d). Pub. L. 93–350 inserted reference to employees retiring under section 8335(g) of this title and substituted a schedule of 2½ percent of his average pay multiplied by so much of his total service as does not exceed 20 years plus 2 percent of his average pay multiplied by so much of his total service as exceeds 20 years

for a schedule of 2 percent of his average pay multiplied by his total service.

Subsec. (f)(2). Pub. L. 93–260 substituted "greatest" for "greater", redesignated cl. (B) as cl. (C), and added cl. (B).

Subsec. (j). Pub. L. 93–474 added provision that an annuity reduced under this subsection or any similar provision of law shall be recomputed and paid as if the annuity had not been so reduced for each full month during which a retired employee or member is not married and that upon marriage the annuity shall be reduced by the same percentage reductions which were in effect at the time of retirement.

1972—Subsec. (e). Pub. L. 92–297, § 6(1), (2), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 92–297, §§ 6(1), 7(3)(A), redesignated former subsec. (e) as (f) and in subsec. (f) as so redesignated, substituted references to subsecs. (a)–(e) for references to subsecs. (a)–(d). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 92–297, § 6(1), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 92–297, §§ 6(1), 7(3)(B), redesignated subsec. (g) as (h) and in subsec. (h) as so redesignated, substituted "subsections (a), (b), and (f)", "subsections (c) and (f)", and "section 8336(g)" for "subsections (a), (b), and (e)", "subsections (c) and (e)", and "section 8336(f)" respectively. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 92–297, §§ 6(1), 7(3)(C), redesignated former subsec. (h) as (i), and in subsec. (i) as so redesignated, substituted reference to subsections (a)–(h) for reference to subsections (a)–(g). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 92–297, §§ 6(1), 7(3)(D), redesignated former subsec. (i) as (j), and in subsec. (j) as so redesignated, substituted reference to subsections (a)–(i) for reference to subsections (a)–(i) for reference to subsections (a)–(h). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 92–297, §§ 6(1), 7(3)(E), redesignated former subsec. (j) as (k), and in subsec. (k) as so redesignated, substituted "subsections (a)–(i)" and "subsection (j)" for "subsections (a)–(h)" and "subsection (i)" respectively. Former subsec. (k) redesignated (*l*).

Subsec. (*l*). Pub. L. 92–297, §§ 6(1), 7(3)(F), redesignated former subsec. (k) as (*l*), and in subsec. (*l*) as so redesignated, substituted "subsections (a)–(e)" and "subsections (a)–(j)". Former subsec. (*l*) redesignated (m).

Subsec. (m). Pub. L. 92–297, § 6(1) redesignated former subsec. (*l*) as (m). Former subsec. (m) redesignated (n).

Subsec. (n). Pub. L. 92–297, §§ 6(1), 7(3)(G), redesignated former subsec. (m) as (n) and in subsec. (n) as so redesignated, substituted "subsections (a)–(e)" and "subsection (f)" for "subsections (a)–(d)" and "subsection (e)" respectively.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–126 effective as of Jan. 1, 1969, applicable to a person who, on Nov. 12, 1975, is receiving or is entitled to receive benefits under any Federal retirement system and requests in writing the application of the amendment to him by the office administering his retirement system, and additional benefits to commence Dec. 1, 1975, see section 3 of Pub. L. 94–126, set out as a note under section 8334 of this title.

EFFECTIVE DATE OF 1974 AMENDMENTS

Section 2 of Pub. L. 93–474 provided that: "The amendment made by this Act [amending subsec. (j) of this section] shall apply to annuities which commence before, on, or after the date of enactment of this Act [Oct. 26, 1974], but no increase in annuity shall be paid for any period prior to the first day of the first month which begins on or after the date of enactment of this Act."

Amendment by Pub. L. 93–350 effective on July 12, 1974, see section 7 of Pub. L. 93–350, set out as a note under section 3307 of this title.

Section 2(b) of Pub. L. 93–260 provided that: "The amendments made by subsection (a) of this section [amending subsec. (f)(2) of this section] shall apply to annuities paid for months beginning after the date of enactment of this Act [Apr. 9, 1974]."

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–297 effective on the ninetieth day after May 16, 1972, see section 10 of Pub. L. 92–297, set out as a note under section 3381 of this title.

INCREASE IN ANNUITY FOR EMPLOYEES OR MEMBERS SEPARATED FROM CIVIL SERVICE PRIOR TO OCT. 20, 1969

Section 2(a) of Pub. L. 93–273, Apr. 26, 1974, 88 Stat. 93, provided that: "An annuity payable from the Civil Service Retirement and Disability Fund to a former employee or Member, which is based on a separation occurring prior to October 20, 1969, is increased by $240."

Section 3 of Pub. L. 93–273 provided in part that annuity increases under this provision shall apply to annuities which commence before, on, or after Apr. 26, 1974, but that no increase in annuity shall be paid for any period prior to the first day of the first month which begins on or after the ninetieth day after Apr. 26, 1974, or the date on which the annuity commences, whichever is later. See section 3 of Pub. L. 93–273, set out as a note under section 8345 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8332, 8334, 8336, 8337, 8338, 8340, 8341, 8342, 8344 of this title; title 10 sections 1450, 1452.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 11–1564 of the District of Columbia Code.

§ 8340. Cost-of-living adjustment of annuities.

* * * * *

(c) Eligibility for an annuity increase under this section is governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase, except as follows:

(1) An annuity (except a deferred annuity under section 8338 of this title or any other provision of law) which—

(A) is payable from the Fund to an employee or Member who retires, or to the widow or widower of a deceased employee or Member; and

(B) has a commencing date after the effective date of the then last preceding annuity increase under subsection (b) of this section;

shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of the then last preceding annuity increase under subsection (b) of this section. In the administration of this paragraph, an employee or a deceased employee shall be deemed, for the purposes of section 8339(m) of this title, to have to his credit, on the effective date of the then last preceding annuity increase under subsection (b) of this section, a number of days of unused sick leave equal to the number of days of unused sick leave to his credit on the date of his separation from the service.

(2) Effective from its commencing date, an annuity payable from the Fund to an annuitant's survivor (except a child entitled under section 8341(e) of this title), which annuity commences the day after the death of the annuitant and after the effective date of the first increase under this section, shall be increased by the total percent increase the annuitant was receiving under this section at death. However, the increase in a survivor annuity authorized by section 8 of the Act of May 29, 1930, as amended to July 6, 1950, shall be computed as if the annuity commencing date

had been the effective date of the first increase under this section.

(3) For the purpose of computing the annuity of a child under section 8341(e) of this title that commences after October 31, 1969, the items $900, $1,080, $2,700, and $3,240 appearing in section 8341 (e) of this title shall be increased by the total percent increases allowed and in force under this section on or after such day and, in case of a deceased annuitant, the items 60 percent and 75 percent appearing in section 8341(e) of this title shall be increased by the total percent allowed and in force to the annuitant under this section on or after such day.

* * * * *

(As amended Pub. L. 93–136, § 1, Oct. 24, 1973, Stat. 490; Pub. L. 94–126, § 2(b), Nov. 12, 1975, 89 Stat. 679; Pub. L. 94–183, § 2(35), Dec. 31, 1975, 89 Stat. 1058.)

AMENDMENTS

1975—Subsec. (c)(1). Pub. L. 94–126 substituted reference to "section 8339(m) of this title" for "section 8339 (n) of this title".

Subsec. (c)(3). Pub. L. 94–183 substituted "after October 31, 1969" for "on or after the first day of the first month that begins on or after the date of enactment of the Civil Service Retirement Amendments of 1969".

1973—Subsec. (c). Pub. L. 93–136 redesignated existing pars. (1) and (2) as pars. (2) and (3) and added par. (1).

EFFECTIVE DATE OF 1973 AMENDMENT

Section 2 of Pub. L. 93–136 provided that: "The amendments made by this Act [ameding this section] shall apply only with respect to annuities which commence on or after July 2, 1973."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8341, 8348 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 11–1571 of the District of Columbia Code.

§ 8341. Survivor annuities.

(a) For the purpose of this section—

(1) "widow" means the surviving wife of an employee or Member who—

(A) was married to him for at least 1 year immediately before his death; or

(B) is the mother of issue by that marriage;

(2) "widower" means the surviving husband of an employee or Member who—

(A) was married to her for at least 1 year immediately before her death; or

(B) is the father of issue by that marriage; and,

(3) "child" means—

(A) an unmarried child under 18 years of age, including (i) an adopted child, and (ii) a stepchild or recognized natural child who lived with the employee or Member in a regular parent-child relationship, and (iii) a child who lived with and for whom a petition of adoption was filed by an employee or Member, and who is adopted by the surviving spouse of the employee or Member after his death;

* * * * *

(b)(1) Except as provided in paragraph (2) of this subsection, if an employee or Member dies after having retired under this subchapter and is survived by a spouse to whom he was married at the time of retirement, or by a widow or widower whom he married after retirement, the spouse, widow, or widower is entitled to an annuity equal to 55 percent, or 50 percent if retired before October 11, 1962, of an annuity computed under section 8339(a)–(i) of this title as may apply with respect to the annuitant, or of such portion thereof as may have been designated for this purpose under section 8339(j) of this title, unless the employee or Member has notified the Commission in writing at the time of retirement that he does not desire any spouse surviving him to receive this annuity.

(2) If an annuitant—

(A) who retired before April 1, 1948; or

(B) who elected a reduced annuity provided in paragraph (2) of section 8339(k) of this title;

dies and is survived by a widow or widower, the widow or widower is entitled to an annuity in an amount which would have been paid had the annuitant been married to the widow or widower at the time of retirement.

* * * * *

(c) The annuity of a survivor named under section 8339(k)(1) of this title is 55 percent of the reduced annuity of the retired employee or Member. The annuity of the survivor commences on the day after the retired employee or Member dies. This annuity and the right thereto terminate on the last day of the month before the survivor dies.

(d) If an employee or Member dies after completing at least 18 months of civilian service, his widow or widower is entitled to an annuity equal to 55 percent of an annuity computed under section 8339 (a)–(f) and (i) of this title as may apply with respect to the employee or Member, except that, in the computation of the annuity under such section, the annuity of the employee or Member shall be at least the smaller of—

* * * * *

(As amended Pub. L. 92–243, § 1, Mar. 9, 1972, 86 Stat. 56; Pub. L. 92–297, § 7(4), May 16, 1972, 86 Stat. 145; Pub. L. 93–260, § 1(a), Apr. 9, 1974, 88 Stat. 76; Pub. L. 94–183, § 2(36), Dec. 31, 1975, 89 Stat. 1058.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 94–183 substituted "8339(k)(1)" for "8339(k)".

1974—Subsec. (a)(1)(A). Pub. L. 93–260 substituted "1 year" for "2 years".

Subsec. (a)(2)(A). Pub. L. 93–260 substituted "1 year" for "2 years".

1972—Subsec. (a)(3)(A). Pub. L. 92–243 added cl. (iii).

Subsec. (c). Pub. L. 92–297, § 7(4)(i), substituted "section 8339(a)–(i)", "section 8339(j)" and "section 8339 (k) for "section 8339(a)–(h)", "section 8339(i)", and "section 8339(j)" respectively.

Subsec. (c). Pub. L. 92–297, § 7(4)(ii), substituted "section 8339(k)" for "section 8339(j)".

Subsec. (d). Pub. L. 92–297, § 7(4)(iii) substituted "section 8339 (a)–(f) and (i)" for "section 8339 (a)–(e) and (h)".

EFFECTIVE DATE OF 1974 AMENDMENT

Section 1(b) of Pub. L. 93–260 provided that: "The amendments made by subsection (a) of this section [amending subsecs. (a)(1)(A), (2)(A) of this section] shall not apply in the cases of employees, Members, or annuitants who died before the date of enactment of this Act [Apr. 9, 1974]. The rights of such individuals and their survivors shall continue in the same manner and to the same extent as if such amendments had not been enacted."

EFFECTIVE DATE OF 1972 AMENDMENTS

Amendment by Pub. L. 92–297 effective on the ninetieth day after May 16, 1972, see section 10 of Pub. L. 92–297, set out as a note under section 3381 of this title.

Section 2 of Pub. L. 92–243 provided that: "The amendment made by the first section of this Act [adding subsec. (a)(3)(iii) of this section] is effective upon enactment [Mar. 9, 1972]. Upon application to the Civil Service Commision, it also applies to a child of an employee or Member who died or retired before such date of enactment [Mar. 9, 1972] but no annuity shall be paid by reason of the amendment for any period prior to the date of enactment [Mar. 9, 1972]."

INCREASE IN ANNUITY PAYABLE TO SURVIVING SPOUSES OF MEMBERS, EMPLOYEES, OF ANNUITIES BASED ON SEPARATION OCCURRING PRIOR TO OCT. 20, 1969

Section 2(b) of Pub. L. 93–273 provided that: "In lieu of any increase based on an increase under subsection (a) of this section, an annuity payable from the Civil Service Retirement and Disability Fund to the surviving spouse of an employee, Member, or annuitant, which is based on a separation occurring prior to October 20, 1969, shall be increased by $132."

Section 3 of Pub. L. 93–273 provided in part that annuity increases under this pension shall apply to annuities which commence before, on, or after Apr. 26, 1974, but that no increase in annuity shall be paid for any period prior to the first day of the first month which begins on or after the ninetieth day after Apr. 26, 1974, or the date on which the annuity commences, whichever is later. See section 3 of Pub. L. 93–273, set out as a note under section 8345 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8331, 8333, 8339, 8340, 8344 of this title; title 10 sections 1450, 1452.

§ 8344. Annuities and pay on reemployment.

(a) If an annuitant receiving annuity from the Fund, except—

(1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;

(2) an annuitant whose annuity is based on an involuntary separation from the service other than an automatic separation; or

(3) a Member receiving annuity from the Fund;

becomes employed after September 30, 1956, or on July 31, 1956 was serving, in an appointive or elective position, his service on and after the date he was or is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. If the annuitant serves on a full-time basis, except as President, for at least 1 year in employment not excluding him from coverage under section 8331(1)(i) or (ii) of this title—

(A) his annuity on termination of employment is increased by an annuity computed under section 8339(a), (b), (d), (e), (h), and (i) of this title as may apply based on the period of employment and the basic pay, before deduction, averaged during that employment; and

(B) his lump-sum credit may not be reduced by annuity paid during that employment.

If the described employment of the annuitant continues for at least 5 years, he may elect, instead of the benefits provided by this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter. Notwithstanding the restrictions contained in section 115 of the Social Security Amendments of 1954 (68 Stat. 1087), a similar right to redetermination after deposit is applicable to an annuitant—

(i) whose annuity is based on an involuntary separation from the service; and

(ii) who is separated after July 11, 1960, following such a period of employment on a full-time basis that began before October 1, 1956.

If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the annuitant dies while still reemployed and the described reemployment had continued for at least 5 years, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter.

* * * * *

(As amended Pub. L. 92–297, § 7(5), May 16, 1972, 86 Stat. 145.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–297 substituted "section 8339 (a), (b), (d), (e), (h), and (i)" for "section 8339 (a), (b), (d), (g), and (h)", in subparagraph (A), and "section 8339(j) or section 8339(k)(2)" for "section 8339(i) or section 8339(j)(2)", in the sentence following clause (ii).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–297 effective on the ninetieth day after May 16, 1972, see section 10 of Pub. L. 92–297, set out as a note under section 3381 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8339 of this title; title 11 section 68; title 22 sections 2386, 2512; title 28 sections 625, 634.

§ 8345. Payment of benefits; commencement, termination, and waiver of annuity.

* * * * *

(f)(1) Notwithstanding any other provision of this subchapter, other than this subsection, the monthly rate of annuity payable under subsection (a) of this section shall not be less than the smallest primary insurance amount, including any cost-of-living increases added to that amount, authorized to be paid from time to time under title II of the Social Security Act.

(2) Notwithstanding any other provision of this subchapter, other than this subsection, the monthly rate of annuity payable under subsection (a) of this section to a surviving child shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act, or three times such pri-

mary insurance amount divided by the number of surviving children entitled to an annuity, whichever is the lesser.

(3) The provisions of this subsection shall not apply to an annuitant or to a survivor who is or becomes entitled to receive from the United States an annuity or retired pay under any other civilian or military retirement system, benefits under title II of the Social Security Act, a pension, veterans' compensation, or any other periodic payment of a similar nature, when the monthly rate thereof, is equal to or greater than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act.

(g) The Commission shall prescribe regulations to provide that the amount of any monthly annuity payable under this section accruing for any month and which is computed with regard to service that includes any service referred to in section 8332 (b)(6) performed by an individual prior to January 1, 1969, shall be reduced by the portion of any benefits under any State retirement system to which such individual is entitled (or on proper application would be entitled) for such month which is attributable to such service performed by such individual before such date.

(g) An individual entitled to an annuity from the Fund may make allotments or assignments of amounts from his annuity for such purposes as the Civil Service Commission in its sole discretion considers appropriate.

(h)(1) No payment shall be made from the Fund unless an application for benefits based on the service of an employee or Member is received in the Civil Service Commission before the one hundred and fifteenth anniversary of his birth.

(2) Notwithstanding paragraph (1) of this subsection, after the death of an employee, Member, or annuitant, no benefit based on his service shall be paid from the Fund unless an application therefor is received in the Civil Service Commission within 30 years after the death or other event which gives rise to title to the benefit. (As amended Pub. L. 93–273, § 1, Apr. 26, 1974, 88 Stat. 93; Pub. L. 94–126, § 1(c), Nov. 12, 1975, 89 Stat. 679; Pub. L. 94–166, § 1, Dec. 23, 1975, 89 Stat. 1002; Pub. L. 94–183, § 1, Dec. 31, 1975, 89 Stat. 1057.)

REFERENCES IN TEXT

Title II of the Social Security Act, referred to in subsec. (f), is classified to section 401 et seq. of Title 42, The Public Health and Welfare.

AMENDMENTS

1975—Subsec. (g). Pub. L. 94–166 added subsec. (g) authorizing allotment or assignment of amounts from annuities.

Pub. L. 94–126 added subsec. (g) relating to the crediting of National Guard technician service in connection with civil service retirement.

Subsec. (h). Pub. L. 94–183 added subsec. (h).

1974—Subsec. (f). Pub. L. 93–273 added subsec. (f).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–126 effective as of Jan. 1, 1969, applicable to a person who, on Nov. 12, 1975, is receiving or is entitled to receive benefits under any Federal retirement system and requests in writing the application of the amendment to him by the office administering his retirement system, and additional benefits to commence Dec. 1, 1975, see section 3 of Pub. L. 94–126, set out as a note under section 8334 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 3 of Pub. L. 93–273 provided that: "This Act [enacting subsec. (f) of this section and enacting provisions set out as notes under this section and sections 8339 and 8341 of this title] shall become effective on the date of enactment [Apr. 26, 1974]. Annuity increases under this Act shall apply to annuities which commence before, on, or after the date of enactment of this Act, but no increase in annuity shall be paid for any period prior to the first day of the first month which begins on or after the ninetieth day after the date of enactment of this Act, or the date on which the annuity commences, whichever is later."

MONTHLY RATE OF MINIMUM ANNUITY

Section 2(c) of Pub. L. 93–273 provided that: "The monthly rate of an annuity resulting from an increase under this section [enacting provisions set out as notes under sections 8339 and 8341 of this title] shall be considered as the monthly rate of annuity payable under section 8345(a) of title 5, United States Code [subsec. (a) of this section], for purposes of computing the minimum annuity under section 8345(f) of title 5 [subsec. (f) of this section], as added by the first section of this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8346 of this title.

§ 8346. Exemption from legal process; recovery of payments.

(a) The money mentioned by this subchapter is not assignable, either in law or equity, except under the provisions of section 8345(g) of this title, or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal laws.

* * * * *

(As amended Pub. L. 94–166, § 2, Dec. 23, 1975, 89 Stat. 1002.)

REFERENCES IN TEXT

Section 8345(g), referred to in subsec. (a), means section 8345(g) of this title as added by Pub. L. 94–166, § 1, Dec. 23, 1975, 89 Stat. 1002 and not to a prior section 8345(g) of this title as added by Pub. L. 94–126, § 1(c), Nov. 12, 1975, 89 Stat. 679.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–166 added "except under the provisions of section 8345(g) of this title," following "equity", and ", except as otherwise may be provided by Federal laws." following "process".

§ 8348. Civil Service Retirement and Disability Fund.

* * * * *

(h)(1) Notwithstanding any other statute, the United States Postal Service shall be liable for that portion of any estimated increase in the unfunded liability of the Fund which is attributable to any benefits payable from the Fund to active and retired Postal Service officers and employees, and to their survivors, when the increase results from an employee-management agreement under title 39, or any administrative action by the Postal Service taken pursuant to law, which authorizes increases in pay on which benefits are computed.

(2) The estimated increase in the unfunded liability, referred to in paragraph (1) of this subsection, shall be determined by the Civil Service Commission. The United States Postal Service shall pay the amount so determined to the Commission in 30 equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System, with the first

payment thereof due at the end of the fiscal year in which an increase in pay becomes effective. (As amended Pub. L. 93–349, § 1, July 12, 1974, 88 Stat. 354; Pub. L. 94–183, § 2(37), Dec. 31, 1975, 89 Stat. 1058.)

AMENDMENTS

1975—Subsec. (h)(2). Pub. L. 94–183 substituted "30" for "thirty".

1974—Subsec. (h). Pub. L. 93–349 added subsec. (h).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–349 effective July 1, 1971, except that the Postal Service shall not be required to make (1) the payments due June 30, 1972, June 30, 1973, and June 30, 1974, attributable to pay increases granted by the Postal Service prior to July 1, 1973, until such time as funds are appropriated to the Postal Service for that purpose, and (2) the transfer to the Civil Service Retirement and Disability Fund required by title II of the Treasury, Postal Service, and General Government Appropriation Act, 1974, Public Law 93–143, see section 3 of Pub. L. 93–349, set out as a note under section 1005 of Title 39, Postal Service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8331 of this title; title 25 section 4501; title 39 section 1005.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 4–522 of the District of Columbia Code.

Chapter 85.—UNEMPLOYMENT COMPENSATION

SUBCHAPTER II.—EX-SERVICEMEN

Sec.
8521. Definitions; application.
8522. Assignment of Federal service and wages.
8523. Dissemination of information.
8524. Repealed.
8525. Effect on other statutes.

AMENDMENTS

1975—Pub. L. 94–183, § 2(42), Dec. 31, 1975, 89 Stat. 1059, substituted "Repealed" for "Accrued leave" in item 8524.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 19 section 2319.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 46–307 of the District of Columbia Code.

§ 8525. Effect on other statutes.

HISTORICAL AND REVISION NOTES 1967 ACT

This section deletes subsection (a) of 5 U.S.C. 8525. That subsection is now obsolete in view of the repeal, effective July 1, 1966, of chapter 43 of title 38, U.S.C., by Public Law 89–50, section 1(a) (79 Stat. 173).

Chapter 87.—LIFE INSURANCE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 2 section 31b–5; title 22 section 2025; title 25 section 4501; title 28 section 332; title 38 sections 4107, 4118; title 42 section 2996d.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in sections 4–832, 31–634, 31–635, 31–746, 31–1542, 31–1603, 31–1623 of the District of Columbia Code.

§ 8701. Definition.

(a) For the purpose of this chapter, "employee" means—

* * * * *

but does not include—

* * * * *

(B) an employee who is not a citizen or national of the United States and whose permanent duty station is outside the United States and the Panama Canal Zone; or

* * * * *

(As amended Pub. L. 93–160, § 1(a), Nov. 27, 1973, 87 Stat. 635.)

AMENDMENTS

1973—Subsec. (a)(B). Pub. L. 93–160 excluded from definition of "employee" persons who are not nationals of the United States and whose permanent duty station is outside the United States and the Panama Canal Zone.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8706, 8716 of this title.

§ 8704. Group insurance; amounts.

* * * * *

(d) In determining the amount of insurance to which an employee is entitled—

* * * * *

(2) a change in rate of pay under section 5344 or 5349 of this title is deemed effective as of the date of issuance of the order granting the increase or the effective date of the increase, whichever is later, except, that in the case of an employee who dies or retires during the period beginning on the effective date of the increase and ending on the date of the issuance of the order granting the increase, a change in rate of pay under either of such sections shall be deemed as having been in effect for such employee during that period.

(As amended Pub. L. 92–392, § 11, Aug. 19, 1972, 86 Stat. 575.)

AMENDMENTS

1972—Subsec. (d)(2). Pub. L. 92–392 substituted "section 5344 or 5349 of this title" for "section 5343 of this title" and added the exception.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as a note under section 5341 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8714a of this title.

§ 8706. Termination of insurance.

* * * * *

(f) If the insurance of an employee stops because of separation from the service or suspension without pay, and the separation or suspension is thereafter officially found to have been erroneous, the employee is deemed to have been insured during the period of erroneous separation or suspension. Deductions otherwise required by section 8707 of this chapter shall not be withheld from any backpay awarded for the period of separation or suspension unless death or accidental dismemberment of the employee occurs during such period. (As amended Pub. L. 92–529, Oct. 21, 1972, 86 Stat. 1050.)

AMENDMENTS

1972—Subsec. (f). Pub. L. 92–529 added subsec. (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8705, 8714a of this title.

§ 8707. Employee deductions; withholding.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8706 of this title.

§ 8714. Employees' Life Insurance Fund.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 4501.

Chapter 89.—HEALTH INSURANCE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 2 section 31b–5; title 25 section 4501; title 28 section 332; title 42 sections 300e–1, 2996d.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in sections 31–634, 31–635, 31–746, 31–1603, 31–1623 of the District of Columbia Code.

§ 8901. Definitions.

For the purpose of this chapter—

(1) "employee" means—

* * * * *

but does not include—

* * * * *

(ii) an employee who is not a citizen or national of the United States and whose permanent duty station is outside the United States and the Panama Canal Zone;

* * * * *

(As amended Pub. L. 93–160, § 1(b), Nov. 27, 1973, 87 Stat. 635.)

AMENDMENTS

1973—Subsec. (1)(ii). Pub. L. 93–160 excluded from the definition of "employee" persons who are not nationals of the United States and whose permanent duty station is outside the United States and the Panama Canal Zone.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8906, 8913 of this title; title 42 section 251.

§ 8902. Contracting authority.

* * * * *

(j) Each contract under this chapter shall require the carrier to agree to pay for or provide a health service or supply in an individual case if the Commission finds that the employee, annuitant, or family member is entitled thereto under the terms of the contract.

(k) When a contract under this chapter requires payment or reimbursement for services which may be performed by a clinical psychologist or optometrist, licensed or certified as such under Federal or State law, as applicable, an employee, annuitant, or family member covered by the contract shall be free to select, and shall have direct access to, such a clinical psychologist or optometrist without supervision or referral by another health practitioner and shall be entitled under the contract to have payment or reimbursement made to him or on his behalf for the services performed. The provisions of this subsection shall not apply to group practice prepayment plans. (As amended Pub. L. 93–246, § 3, Jan. 31, 1974, 88 Stat. 4; Pub. L. 93–363, § 1, July 30, 1974, 88 Stat. 398; Pub. L. 94–183, § 2(43), Dec. 31, 1975, 89 Stat. 1059.)

AMENDMENTS

1975—Subsec. (k). Pub. L. 94–183 redesignated former subsec. (j) added by Pub. L. 93–363, relating to services performed by a clinical psychologist or optometrist, as (k).

1974—Subsec. (j). Pub. L. 93–363 added subsec. (j) covering services performed by a clinical psychologist or optometrist.

Pub. L. 93–246 added subsec. (j) requiring the carrier to pay for or provide a health service or supply in specified cases.

EFFECTIVE DATE OF 1974 AMENDMENTS

Section 2 of Pub. L. 93–363 provided that: "The amendment made by this Act [adding subsec. (j) of this section] shall become effective with respect to any contract entered into or renewed on or after the date of enactment of this Act [July 30, 1974]."

Section 4(c) of Pub. L. 93–246 provided that: "Section 3 [adding subsec. (j) of this section] shall become effective with respect to any contract entered into or renewed on or after the date of enactment of this Act [Jan. 31, 1974]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8910, 8913 of this title.

§ 8905. Election of coverage.

ELECTION OF HEALTH BENEFITS COVERAGE AND ENTITLEMENT TO HEALTH BENEFITS UNDER THIS CHAPTER RATHER THAN UNDER RETIRED FEDERAL EMPLOYEES HEALTH BENEFITS ACT

Pub. L. 93–246, §§ 2, 4(b), Jan. 31, 1974, 88 Stat. 4, provided that:

"SEC. 2. (a) Notwithstanding any other provision of law, an annuitant, as defined under section 8901(3) of title 5, United States Code, who is participating or who is eligible to participate in the health benefits program offered under the Retired Federal Employees Health Benefits Act (74 Stat. 849; Public Law 86–724), may elect, in accordance with regulations prescribed by the United States Civil Service Commission, to be covered under the provisions of chapter 89 of title 5, United States Code [this chapter], in lieu of coverage under such Act.

"(b) An annuitant who elects to be covered under the provisions of chapter 89 of title 5, United States Code [this chapter], in accordance with subsection (a) of this section, shall be entitled to the benefits under such chapter 89.

* * * * *

"[Sec. 4] (b) Section 2 [set out above] shall take effect on the one hundred and eightieth day following the date of enactment [Jan. 1, 1974] or on such earlier date as the United States Civil Service Commission may prescribe."

§ 8906. Contributions.

(a) The Commission shall determine the average of the subscription charges in effect on the beginning date of each contract year with respect to self alone or self and family enrollments under this chapter, as applicable, for the highest level of benefits offered by—

(1) the service benefit plan;

(2) the indemnity benefit plan;

(3) the two employee organization plans with the largest number of enrollments, as determined by the Commission.

(4) the two comprehensive medical plans with the largest number of enrollments, as determined by the Commission.

(b)(1) Except as provided by paragraph (2) of this subsection, the biweekly Government contribution for health benefits for an employee or annuitant enrolled in a health benefits plan under this chapter shall be adjusted, beginning on the first day of the first applicable pay period of each year, to an amount equal to the following percentage, as applicable, of the average subscription charge determined under subsection (a) of this section: 50 percent for applicable pay periods commencing in 1974 and 60 percent for applicable pay periods commencing in 1975 and in each year thereafter.

(2) The biweekly Government contribution for an employee or annuitant enrolled in a plan under this chapter shall not exceed 75 percent of the subscription charge.

(c) There shall be withheld from the pay of each enrolled employee and the annuity of each enrolled annuitant and there shall be contributed by the Government, amounts, in the same ratio as the contributions of the employee or annuitant and the Government under subsection (b) of this section, which are necessary for the administrative costs and the reserves provided for by section 8909(b) of this title.

* * * * *

(g) The Government contributions authorized by this section for health benefits for an annuitant shall be paid from annual appropriations which are authorized to be made for that purpose.

* * * * *

(As amended Pub. L. 93–246, § 1, Jan. 31, 1974, 88 Stat. 3.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–246, § 1(a), deleted introductory text "Except as provided by subsection (b) of this section, the biweekly Government contribution for health benefits for employees or annuitants enrolled in health benefits plans under this chapter shall be adjusted", now incorporated in subsec. (b)(1) of this section, required Commission determination of average of subscription charges, and reenacted remainder of existing provisions, substituting "beginning date of each contract year" for "beginning date of the adjustment".

Subsec. (b)(1). Pub. L. 93–246, § 1(a), incorporated introductory text of former subsec. (a) reading "Except as provided by subsection (b) of this section, the biweekly Government contribution for health benefits for employees or annuitants enrolled in health benefits plans under this chapter shall be adjusted", as initial text of provisions designated as subsec. (b)(1), substituted provision for amount of biweekly Government contribution equal to 50 percent of average subscription charge for applicable pay periods commencing in 1974 and 60 percent for applicable pay periods commencing in 1975, and annually thereafter, for former subsec. (a) provision for an amount equal to 40 percent of average of subscription charges and former subsec. (b) provision for 50 percent of subscription charge where the biweekly subscription charge was less than twice the Government contribution.

Subsec. (b)(2). Pub L. 93–246, § 1(a), added par. (2).

Subsec. (c). Pub. L. 93–246, § 1(b), deleted reference to subsec. (a).

Subsec. (g). Pub. L. 93–246, § 1(c), substituted "by this section" for "by subsection (a) of this section".

EFFECTIVE DATE OF 1974 AMENDMENT

Section 4(a) of Pub. L. 93–246 provided that: "The first section of this Act [amending subsecs. (a)–(c) and (g) of this section] shall take effect on the first day of the first applicable pay period which begins on or after January 1, 1974."

Section 4(d) of Pub. L. 93–246 provided that: "The determination of the average of subscription charges and the adjustment of the Government contributions for 1973, under section 8906 of title 5, United States Code, as amended by the first section of this Act [amending subsecs. (a)–(c) and (g) of this section], shall take effect on the first day of the first applicable pay period which begins on or after the thirtieth day following the date of enactment of this Act [Jan. 31, 1974]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8909 of this title; title 42 section 1395s.

§ 8909. Employees Health Benefit Fund.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 4501.

§ 8911. Advisory committee.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, excluding committees composed wholly of full-time officers or employees of the Federal Government, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to this title.

TITLE 5.—APPENDIX I

FEDERAL ADVISORY COMMITTEE ACT

Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770

§ 1. Short title.

This Act may be cited as the "Federal Advisory Committee Act".

ACT REFERRED TO IN OTHER SECTIONS

This Act is referred to in title 12 section 1428a; title 15 sections 78k–1, 776; title 16 section 541g; title 19 section 2155; title 29 section 1302; title 42 sections 300j–5, 300k–3, 5816, 6007; title 49 section 1903; title 50 App. sections 2158a, 2169.

§ 2. Findings and purpose.

(a) The Congress finds that there are numerous committees, boards, commissions, councils, and similar groups which have been established to advice officers and agencies in the executive branch of the Federal Government and that they are frequently a useful and beneficial means of furnishing expert advice, ideas, and diverse opinions to the Federal Government.

(b) The Congress further finds and declares that—

(1) the need for many existing advisory committees has not been adequately reviewed;

(2) new advisory committees should be established only when they are determined to be essential and their number should be kept to the minimum necessary; .

(3) advisory committees should be terminated when they are no longer carrying out the purposes for which they were established;

(4) standards and uniform procedures should govern the establishment, operation, administration, and duration of advisory committees;

(5) the Congress and the public should be kept informed with respect to the number, purpose, membership, activities, and cost of advisory committees; and

(6) the function of advisory committees should be advisory only, and that all matters under their consideration should be determined, in accordance with law, by the official, agency, or officer involved.

EXECUTIVE ORDER No. 11686

Ex. Ord. No. 11686, Oct. 7, 1972, 37 F.R. 21421, formerly set out as a note under this section, which related to committee management, was superseded by Ex. Ord. No. 11769, Feb. 21, 1974, 39 F.R. 7125, set out as a note under this section.

EX. ORD. NO. 11769. COMMITTEE MANAGEMENT

Ex. Ord. No. 11769, Feb. 21, 1974, 39 F.R. 7125, provided:

By virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, including the Federal Advisory Committee Act, 5 U.S.C. App. I (1972 Supp.) (hereinafter referred to as the "act") [this Appendix], and 3 U.S.C. 301 it is ordered as follows:

SECTION 1. The heads of all executive departments and agencies shall take appropriate action to assure their ability to comply with the provisions of the act.

SEC. 2. The Administrator of General Services shall prepare for the consideration of the President the annual report to the Congress required by section 6(c) of the act [section 6(c) of this Appendix].

SEC. 3. The Director of the Office of Management and Budget shall:

(1) perform, or designate, from time to time, other officers of the Federal Government to perform, without the approval, ratification, or other action of the President, the functions vested in the President by the act;

(2) prescribe administrative guidelines and management controls for advisory committees covered by the act.

SEC. 4. Executive Order No. 11686 of October 7, 1972 is hereby superseded.

RICHARD NIXON.

§ 3. Definitions.

For the purpose of this Act—

(1) The term "Director" means the Director of the Office of Management and Budget.

(2) The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof (hereafter in this paragraph referred to as "committee"), which is—

(A) established by statute or reorganization plan, or

(B) established or utilized by the President, or

(C) established or utilized by one or more agencies,

in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government, except that such term excludes (i) the Advisory Commission on Intergovernmental Relations, (ii) the Commission on Government Procurement, and (iii) any committee which is composed wholly of full-time officers or employees of the Federal Government.

(3) The term "agency" has the same meaning as in section 551(1) of Title 5.

(4) The term "Presidential advisory committee" means an advisory committee which advises the President.

§ 4. Applicability; restrictions.

(a) The provisions of this Act or of any rule, order, or regulation promulgated under this Act shall apply to each advisory committee except to the extent that any Act of Congress establishing any such advisory committee specifically provides otherwise.

(b) Nothing in this Act shall be construed to apply to any advisory committee established or utilized by—

(1) the Central Intelligence Agency; or

(2) the Federal Reserve System.

(c) Nothing in this Act shall be construed to apply to any local civic group whose primary function is that of rendering a public service with respect to a Federal program, or any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies.

§ 5. Responsibilities of Congressional committees; review; guidelines.

(a) In the exercise of its legislative review function, each standing committee of the Senate and the House of Representatives shall make a continuing review of the activities of each advisory committee under its jurisdiction to determine whether such advisory committee should be abolished or merged with any other advisory committee, whether the responsibilities of such advisory committee should be revised, and whether such advisory committee performs a necessary function not already being performed. Each such standing committee shall take appropriate action to obtain the enactment of legislation necessary to carry out the purpose of this subsection.

(b) In considering legislation establishing, or authorizing the establishment of any advisory committee, each standing committee of the Senate and of the House of Representatives shall determine, and report such determination to the Senate or to the House of Representatives, as the case may be, whether the functions of the proposed advisory committee are being or could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an eixsting advisory committee. Any such legislation shall—

(1) contain a clearly defined purpose for the advisory committee;

(2) require the membership of the advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee;

(3) contain appropriate provisions to assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee's independent judgment;

(4) contain provisions dealing with authorization of appropriations, the date for submission of reports (if any), the duration of the advisory committee, and the publication of reports and other materials, to the extent that the standing committee determines the provisions of section 10 of this Act to be inadequate; and

(5) contain provisions which will assure that the advisory committee will have adequate staff (either supplied by an agency or employed by it), will be provided adequate quarters, and will have funds available to meet its other necessary expenses.

(c) To the extent they are applicable, the guidelines set out in subsection (b) of this section shall be followed by the President, agency heads, or other Federal officials in creating an advisory committee.

§ 6. Responsibilities of the President; report to Congress; annual report to Congress; exclusion.

(a) The President may delegate responsibility for evaluating and taking action, where appropriate, with respect to all public recommendations made to him by Presidential advisory committees.

(b) Within one year after a Presidential advisory committee has submitted a public report to the President, the President or his delegate shall make a report to the Congress stating either his proposals for action or his reasons for inaction, with respect to the recommendations contained in the public report.

(c) The President shall, not later than March 31 of each calendar year (after the year in which this Act is enacted), make an annual report to the Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceding calendar year. The report shall contain the name of every advisory committee, the date of and authority for its creation, its termination date or the date it is to make a report, its functions, a reference to the reports it has submitted, a statement of whether it is an ad hoc or continuing body, the dates of its meetings, the names and occupations of its current members, and the total estimated annual cost to the United States to fund, service, supply, and maintain such committee. Such report shall include a list of those advisory committees abolished by the President, and in the case of advisory committees established by statute, a list of those advisory committees which the President recommends be abolished together with his reasons therefor. The President shall exclude from this report any information which, in his judgment, should be withheld for reasons of national security, and he shall include in such report a statement that such information is excluded.

§ 7. Responsibilities of the Director, Office of Management and Budget; Committee Management Secretariat, establishment; review; recommendations to President and Congress; agency cooperation; performance guidelines; uniform pay guidelines; travel expenses; expense recommendations.

(a) The Director shall establish and maintain within the Office of Management and Budget a Committee Management Secretariat, which shall be responsible for all matters relating to advisory committees.

(b) The Director shall, immediately after October 6, 1972, institute a comprehensive review of the activities and responsibilities of each advisory committee to determine—

(1) whether such committee is carrying out its purpose;

(2) whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;

(3) whether it should be merged with other advisory committees; or

(4) whether it should be abolished.

The Director may from time to time request such information as he deems necessary to carry out his functions under this subsection. Upon the comple-

tion of the Director's review he shall make recommendations to the President and to either the agency head or the Congress with respect to action he believes should be taken. Thereafter, the Director shall carry out a similar review annually. Agency heads shall cooperate with the Director in making the reviews required by this subsection.

(c) The Director shall prescribe administrative guidelines and management controls applicable to advisory committees, and, to the maximum extent feasible, provide advice, assistance, and guidance to advisory committees to improve their performance. In carrying out his functions under this subsection, the Director shall consider the recommendations of each agency head with respect to means of improving the performance of advisory committees whose duties are related to such agency.

(d) (1) The Director, after study and consultation with the Civil Service Commission, shall establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs, and consultants of advisory committees in a manner which gives appropriate recognition to the responsibilities and qualifications required and other relevant factors. Such regulations shall provide that—

(A) no member of any advisory committee or of the staff of any advisory committee shall receive compensation at a rate in excess of the rate specified for GS–18 of the General Schedule under section 5332 of Title 5; and

(B) such members, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons employed intermittently in the Government service.

(2) Nothing in this subsection shall prevent—

(A) an individual who (without regard to his service with an advisory committee) is a full-time employee of the United States, or

(B) an individual who immediately before his service with an advisory committee was such an employee,

from receiving compensation at the rate at which he otherwise would be compensated (or was compensated) as a full-time employee of the United States.

(e) The Director shall include in budget recommendations a summary of the amounts he deems necessary for the expenses of advisory committees, including the expenses for publication of reports where appropriate.

§ 8. Responsibilities of agency heads; Advisory Committee Management Officer, designation.

(a) Each agency head shall establish uniform administrative guidelines and management controls for advisory committees established by that agency, which shall be consistent with directives of the Director under section 7 and section 10. Each agency shall maintain systematic information on the nature, functions, and operations of each advisory committee within its jurisdiction.

(b) The head of each agency which has an advisory committee shall designate an Advisory Committee Management Officer who shall—

(1) exercise control and supervision over the establishment, procedures, and accomplishments of advisory committees established by that agency;

(2) assemble and maintain the reports, records, and other papers of any such committee during its existence; and

(3) carry out, on behalf of that agency, the provisions of section 552 of Title 5, with respect to such reports, records, and other papers.

§ 9. Establishment and purpose of advisory committees; publication in Federal Register; charter: filing, contents, copy.

(a) No advisory committee shall be established unless such establishment is—

(1) specifically authorized by statute or by the President; or

(2) determined as a matter of formal record, by the head of the agency involved after consultation with the Director, with timely notice published in the Federal Register, to be in the public interest in connection with the performance of duties imposed on that agency by law.

(b) Unless otherwise specifically provided by statute or Presidential directive, advisory committees shall be utilized solely for advisory functions. Determinations of action to be taken and policy to be expressed with respect to matters upon which an advisory committee reports or makes recommendations shall be made solely by the President or an officer of the Federal Government.

(c) No advisory committee shall meet or take any action until an advisory committee charter has been filed with (1) the Director, in the case of Presidential advisory committees, or (2) with the head of the agency to whom any advisory committee reports and with the standing committees of the Senate and of the House of Representatives having legislative jurisdiction of such agency. Such charter shall contain the following information:

(A) the committee's official designation;

(B) the committee's objectives and the scope of its activity;

(C) the period of time necessary for the committee to carry out its purposes;

(D) the agency or official to whom the committee reports;

(E) the agency responsible for providing the necessary support for the committee;

(F) a description of the duties for which the committee is responsible, and, if such duties are not solely advisory, a specification of the authority for such functions;

(G) the estimated annual operating costs in dollars and man-years for such committee;

(H) the estimated number and frequency of committee meetings;

(I) the committee's termination date, if less than two years from the date of the committee's establishment; and

(J) the date the charter is filed.

A copy of any such charter shall also be furnished to the Library of Congress.

§ 10. Advisory committee procedures; meetings; notice, publication in Federal Register; regulations; minutes; certification; annual report; Federal officer or employee, attendance.

(a)(1) Each advisory committee meeting shall be open to the public.

(2) Except when the President determines otherwise for reasons of national security, timely notice of each such meeting shall be published in the Federal Register, and the Director shall prescribe regulations to provide for other types of public notice to insure that all interested persons are notified of such meeting prior thereto.

(3) Interested persons shall be permitted to attend, appear before, or file statements with any advisory committee, subject to such reasonable rules or regulations as the Director may prescribe.

(b) Subject to section 552 of Title 5, the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in the offices of the advisory committee or the agency to which the advisory committee reports until the advisory committee ceases to exist.

(c) Detailed minutes of each meeting of each advisory committee shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory committee. The accuracy of all minutes shall be certified to by the chairman of the advisory committee.

(d) Subsections (a)(1) and (a)(3) of this section shall not apply to any advisory committee meeting which the President, or the head of the agency to which the advisory committee reports, determines is concerned with matters listed in section 552(b) of Title 5. Any such determination shall be in writing and shall contain the reasons for such determination. If such a determination is made, the advisory committee shall issue a report at least annually setting forth a summary of its activities and such related matters as would be informative to the public consistent with the policy of section 552(b) of Title 5.

(e) There shall be designated an officer or employee of the Federal Government to chair or attend each meeting of each advisory committee. The officer or employee so designated is authorized, whenever he determines it to be in the public interest, to adjourn any such meeting. No advisory committee shall conduct any meeting in the absence of that officer or employee.

(f) Advisory committees shall not hold any meetings except at the call of, with the advance approval of, a designated officer or employee of the Federal Government, and in the case of advisory committees (other than Presidential advisory committees), with an agenda approved by such officer or employee.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 19 section 2155; title 20 section 1233h; title 42 section 6273; title 50 App. section 2158a.

§ 11. Availability of transcripts; "agency proceeding".

(a) Except where prohibited by contractual agreements entered into prior to the effective date of this Act, agencies and advisory committees shall make available to any person, at actual cost of duplication, copies of transcripts of agency proceedings or advisory committee meetings.

(b) As used in this section "agency proceeding" means any proceeding as defined in section 551(12) of Title 5.

REFERENCES IN TEXT

Effective date of this Act, referred to in subsec. (a), as meaning effective upon expiration of ninety days following enactment of Pub. L. 92–463 on Oct. 6, 1972, see section 15 of Pub. L. 92–463.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 19 section 2155; title 42 section 6273; title 50 App. section 2158a.

§ 12. Fiscal and administrative provisions; record-keeping; audit; agency support services.

(a) Each agency shall keep records as will fully disclose the disposition of any funds which may be at the disposal of its advisory committees and the nature and extent of their activities. The General Services Administration, or such other agency as the President may designate, shall maintain financial records with respect to Presidential advisory committees. The Comptroller General of the United States, or any of his authorized representatives, shall have access, for the purpose of audit and examination, to any such records.

(b) Each agency shall be responsible for providing support services for each advisory committee established by or reporting to it unless the establishing authority provides otherwise. Where any such advisory committee reports to more than one agency, only one agency shall be responsible for support services at any one time. In the case of Presidential advisory committees, such services may be provided by the General Services Administration.

§ 13. Responsibilities of Library of Congress; reports and background papers; depository.

Subject to section 552 of Title 5, the Director shall provide for the filing with the Library of Congress of at least eight copies of each report made by every advisory committee and, where appropriate, background papers prepared by consultants. The Librarian of Congress shall establish a depository for such reports and papers where they shall be available to public inspection and use.

§ 14. Termination of advisory committees; renewal; continuation.

(a)(1) Each advisory committee which is in existence on the effective date of this Act shall terminate not later than the expiration of the two-year period following such effective date unless—

(A) in the case of an advisory committee established by the President or an officer of the Federal Government, such advisory committee is renewed by the President or that officer by appropriate action prior to the expiration of such two-year period; or

(B) in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.

(2) Each advisory committee established after such effective date shall terminate not later than the expiration of the two-year period beginning on the date of its establishment unless—

(A) in the case of an advisory committee established by the President or an officer of the Federal Government, such advisory committee is renewed by the President or such officer by appropriate action prior to the end of such period; or

(B) in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.

(b) (1) Upon the renewal of any advisory committee, such advisory committee shall file a charter in accordance with section 9(c).

(2) Any advisory committee established by an Act of Congress shall file a charter in accordance with such section upon the expiration of each successive two-year period following the date of enactment of the Act establishing such advisory committee.

(3) No advisory committee required under this subsection to file a charter shall take any action (other than preparation and filing of such charter) prior to the date on which such charter is filed.

(c) Any advisory committee which is renewed by the President or any officer of the Federal Government may be continued only for successive two-year periods by appropriate action taken by the President or such officer prior to the date on which such advisory committee would otherwise terminate.

REFERENCES IN TEXT

Effective date of this Act, referred to in subsec. (a)(1), as meaning effective upon expiration of ninety days following enactment of Pub. L. 92-463 on Oct. 6, 1972, see section 15 of Pub. L. 92-463.

EX. ORD. NO. 11827. CONTINUANCE OF CERTAIN FEDERAL ADVISORY COMMITTEES

Ex. Ord. No. 11827, Jan. 4, 1975, 40 F.R. 1217, provided:

Under the provisions of Section 14 of the Federal Advisory Committee Act (5 U.S.C. App. I), each advisory committee created by the President or any other officer of the Executive Branch and subject to the provisions of this Act—in existence on the effective date of the Act, January 5, 1973—will terminate on January 5, 1975, unless renewed by the President or other appropriate officer.

During the period elapsed since the Federal Advisory Committee Act was enacted, all Federal advisory committees subject to that Act have been thoroughly examined and reexamined to determine whether they should be continued, modified, abolished, or allowed to terminate. In that period, more than 300 Federal advisory committees have been abolished or allowed to terminate.

All advisory committees created by the President before the effective date of the Act and subject to the provisions of the Act have been carefully examined. I have determined that those listed in Section 1 of this Order should be continued until January 5, 1977, unless terminated sooner. I have also determined that the advisory committees listed in Section 2 of this Order, created after the effective date of the Federal Advisory Committee Act—expiring under the terms of that Act before January 5, 1977—should be continued until that date, unless terminated sooner.

NOW, THEREFORE, I, GERALD R. FORD, by virtue of the authority vested in me as President of the United States of America, particularly by the Federal Advisory Committee Act, do hereby order as follows:

SECTION 1. The following-listed advisory committees are hereby continued until January 5, 1977, unless otherwise sooner terminated—

(1) Citizens' Advisory Committee on Environmental Quality—Executive Order No. 11472 of May 29, 1969, as amended (Council on Environmental Quality [set out as a note under section 4321 of Title 42.]

(2) Quetico-Superior Committee—Executive Order No. 11342 of April 10, 1967 (Department of Agriculture).

(3) Advisory Council for Minority Enterprise—Executive Order No. 11625 of October 13, 1971 (Department of Commerce) [set out as a note under section 631 of Title 15].

(4) Consumer Advisory Council—Executive Order No. 11583 of February 24, 1971, as amended (Department of Health, Education, and Welfare) [set out as a note under section 887d of Title 20].

(5) President's Council on Physical Fitness and Sports—Executive Order No. 11562 of September 25, 1970 (Department of Health, Education, and Welfare).

(6) Committee for the Preservation of the White House—Executive Order No. 11145 of March 7, 1964, as amended (Department of the Interior) [set out as a note under section 110 of Title 3].

(7) Citizens' Advisory Council on the Status of Women—Executive Order No. 11126 of November 1, 1963, as amended (Department of Labor) [set out as a note under section 2000e of Title 42].

(8) President's Advisory Committee on the Environmental Merit Awards Program—Executive Order No. 11667 of April 19, 1972 (Environmental Protection Agency).

(9) National Health Resources Advisory Committee—Executive Order No. 11415 of June 24, 1968, as amended (General Services Administration) [set out as a note under section 454 of Title 50, Appendix].

(10) President's Committee on the National Medal of Science—Executive Order No. 11287 of June 28, 1966, as amended (National Science Foundation) [set out as a note under section 1881 of Title 42].

(11) President's Commission on White House Fellowships—Executive Order No. 11183 of October 3, 1964, as amended (Civil Service Commission).

SEC. 2. The following-listed advisory committees are hereby continued until January 5, 1977, unless terminated sooner—

(1) President's Export Council—Executive Order No. 11753 of December 20, 1973 (Department of Commerce) [set out as a note under section 2401 of Title 50, Appendix].

(2) President's Committee on Mental Retardation—Executive Order No. 11776 of March 28, 1974 (Department of Health, Education, and Welfare) [set out as a note preceding section 2661 of Title 42].

(3) Federal Advisory Council on Occupational Safety and Health—Executive Order No. 11807 of September 28, 1974 (Department of Labor) [set out as a note under section 7902 of this title].

(4) Energy Research and Development Advisory Council—Presidential Announcement of June 29, 1973 (National Science Foundation).

(5) Ad Hoc Advisory Group on Puerto Rico—Presidential Announcement of September 27, 1973 (Domestic Council).

SEC. 3. The department or agency listed after the advisory committees listed in Section 1 and Section 2 of this Order shall perform such functions with respect to the committee involved as may be required by the Federal Advisory Committee Act.

SEC. 4. Advisory committees created by the President before January 5, 1973, which are subject to the provisions of the Federal Advisory Committee Act, and which have not been continued by Section 1 of this Order, will, unless sooner terminated under the provisions of the Federal Advisory Committee Act, terminate as of January 5, 1975.

GERALD R. FORD.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 1142; title 42 sections 218, 300j-5, 300k-3.

§ 15. Effective date.

Except as provided in section 7(b), this Act shall become effective upon the expiration of ninety days following October 6, 1972.

TITLE 5.—APPENDIX II

This appendix contains Reorganization Plans which took effect in accordance with the provisions of section 901 et seq. of this title.

REORGANIZATION PLAN NO. 3 OF 1950

Eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, as amended Pub. L. 92–22, § 3, June 1, 1971, 85 Stat. 76.

* * * * *

DEPARTMENT OF THE INTERIOR

* * * * *

SEC. 4. [Repealed. Pub. L. 92–22, § 3, June 1, 1971, 85 Stat. 76. Section authorized appointment of Administrative Assistant Secretary of Interior, and is now covered by section 1453a of Title 43 and section 5315(18) of Title 5. Section 3 provided that such repeal be effective upon Senate confirmation of Presidential appointment of Assistant Secretary of Interior under successor provisions.]

REORGANIZATION PLAN NO. 26 OF 1950

Eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, as amended May 18, 1972, Pub. L. 92–302, § 1(d), 86 Stat. 149.

DEPARTMENT OF THE TREASURY

* * * * *

Sec. 3. [Repealed. Pub. L. 92–302, § 1(d), May 18, 1972, 86 Stat. 149. Section provided for an Administrative Assistant Secretary of the Treasury, his duties and compensation.]

* * * * *

REORGANIZATION PLAN NO. 1 OF 1958

Eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799, as amended

CIVILIAN MOBILIZATION

* * * * *

SEC. 2. OFFICE OF EMERGENCY PREPAREDNESS

[The Office of Emergency Preparedness including the offices of Director and Deputy Director, and all offices of Assistant Director, were abolished by Reorg. Plan No. 1 of 1973, § 3(a)(1), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089.]

SEC. 3. REGIONAL DIRECTORS

[All offices of Regional Director of the Office of Emergency Preparedness were abolished by Reorg. Plan No. 1 of 1973, § 3(a)(1), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089.

SEC. 4. MEMBERSHIP ON NATIONAL SECURITY COUNCIL

[The functions of the Director of the Office of Emergency Preparedness as a member of the National Security Council were abolished by Reorg. Plan No. 1 of 1973, § 3(a)(2), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089]

SEC. 5. CIVIL DEFENSE ADVISORY COUNCIL

[The Civil Defense Advisory Council, together with its functions, was abolished by Reorg. Plan No. 1 of 1973, § 3(a)(3), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089.]

REORGANIZATION PLAN NO. 1 OF 1968

Eff. Apr. 8, 1968, 33 F.R. 5611, 82 Stat. 1367, as amended Reorg. Plan No. 2 of 1973, eff. July 1, 1973, 38 F.R. 15932, 87 Stat. 1091.

NARCOTICS; DRUG ABUSE CONTROL

* * * * *

SEC. 3. BUREAU OF NARCOTICS AND DANGEROUS DRUGS

(a) [Repealed. Reorg. Plan No. 2 of 1973, § 3, eff. July 1, 1973, 38 F.R. 15932, 87 Stat. 1091.]

REORGANIZATION PLAN NO. 1 OF 1971

Eff. July 1, 1971, 36 F.R. 11181, 85 Stat. 819.

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 24, 1971, pursuant to the provisions of chapter 9 of title 5 of the United States Code.

REORGANIZATION OF CERTAIN VOLUNTEER PROGRAMS

SECTION 1. ESTABLISHMENT OF AGENCY

[Superseded. Pub. L. 93–113, title VI, § 601(a), Oct. 1, 1973, 87 Stat. 416. Section established the "Action" Agency and is now covered by section 5041 of Title 42.]

SEC. 2. TRANSFER OF FUNCTIONS

(a) [Superseded. Pub. L. 93–113, title VI, § 601(a), Oct. 1, 1973, 87 Stat. 416. Subsec. (a) transferred to the Director of Action the functions of the Director of the Office of Economic Opportunity under sections 2991 to 2994d of Title 42, the functions of the Secretary of Health, Education, and Welfare under sections 3044 to 3044e of Title 42, the functions of the Small Business Administration under section 637(b) of Title 15, and other functions incidental to or necessary for the performance of the foregoing functions, including functions conferred upon the Director of the Office of Economic Opportunity by section 2941 of Title 42. Subject matter is now covered by section 4951 et seq. and provisions set out as a note under section 5041 of Title 42.]

(b) The function conferred upon the Director of the Peace Corps by section 4(c)(4) of the Peace Corps Act, as amended (22 U.S.C. 2503(c)(4)), is hereby transferred to the President of the United States.

SEC. 3. PERFORMANCE OF TRANSFERRED FUNCTIONS

[Superseded. Pub. L. 93–113, title VI, § 601(a), Oct. 1, 1973, 87 Stat. 416. Section related to performance of transferred functions.]

SEC. 4. INCIDENTAL TRANSFERS

[Superseded. Pub. L. 93–113, title VI, § 601(a), Oct. 1, 1973, 87 Stat. 416. Section related to incidental transfers.]

SEC. 5. INTERIM OFFICERS

(a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Director of Action until the office of Director is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Director, authorize any such person to act as Associate Director, and authorize any such person to act as the head of any principal constituent organizational entity of Action.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

SEC. 6. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect as provided by section 906(a) of title 5 of the United States Code, or on July 1, 1971, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

America is a nation unique in the political history of the world. More than any other nation, it is the sum of the energies and efforts of all of its people. The American tradition of voluntary involvement—of freely committing one's time and talents in the search for civic improvement and social progress—gives an extra dimension to the meaning of democracy. In the past decade the Federal Government has built on this tradition by developing channels for joining the spirit of voluntary citizen service in America with public needs, both domestically and abroad. Many of these efforts have had marked success. But the circumstances in which these efforts were conceived have changed.

National and international needs have altered. The opportunities for voluntary service must be adapted and improved to meet these new needs.

Recognizing that private channels of voluntary action are a vital source of strength in our national life, I have supported the establishment and development of the National Center for Voluntary Action. The National Center is a private, non-profit partner in the effort to generate and encourage volunteer service. The Center works to promote the establishment of local Voluntary Action Centers, as well as to assist in the expansion of voluntary action organizations already in existence. It stimulates voluntary action by providing information on successful voluntary efforts, and it assists in directing those who wish to volunteer services to areas and endeavors in which their services are needed.

The National Center for Voluntary Action is functioning now to fill a vital need in the private voluntary sector. Now we must turn our attention to bringing government volunteer programs into line with new national priorities and new opportunities for meeting those priorities. We must take full advantage of the lessons of the past decade, and we must build on the experience of that period if we are to realize the full potential of voluntary citizen service. This is no longer a matter of choice. We cannot afford to misuse or ignore the considerable talents and energies of our people. In the coming years, the continued progress of our society is going to depend increasingly upon the willingness of more Americans to participate in voluntary service and upon our ability to channel their service effectively.

One matter of consequence to the problems of properly channeling volunteer services and expanding government's role in the development of volunteer resources is the proliferation of government volunteer programs. It was perhaps inevitable that these programs would be generated almost at random across the spectrum of government concern for human needs. This occurred in a period when the Federal Government was still attempting to define its relationship with, and its purposes in, the area of voluntary service. Now the role of government has been confirmed and its responsibilities and obligations are clear. Meeting these responsibilities and obligations will be a long, difficult, and challenging adventure. But it is an adventure we can look to with excitement and with the knowledge that the only sure source of failure can be a failure of the will of the American people. I do not believe it will fail.

The foundation for a greatly expanded government contribution to volunteer service already exists. Now we must consolidate that foundation in order to build on it. To accomplish this, I propose a reorganization of the present volunteer service system. Accordingly, I herewith transmit to the Congress Reorganization Plan No. 1 of 1971, prepared in accordance with chapter 9 of title 5 of the United States Code. Reorganization would bring together within a single agency a number of voluntary action programs presently scattered throughout the executive branch of the Federal Government. The new agency would be called Action.

COMPOSITION

Under the reorganization plan Action would administer the functions of the following programs:

—Volunteers in Service to America: VISTA volunteers work in domestic poverty areas to help the poor break the poverty cycle.

—Auxiliary and Special Volunteer Programs in the Office of Economic Opportunity: At present the National Student Volunteer Program is administered under this authority. This program stimulates student voluntary action programs which deal with the problems of the poor.

—Foster Grandparents: This program provides opportunities for the elderly poor to assist needy children.

—Retired Senior Volunteer Program: RSVP provides opportunities for retired persons to perform voluntary services in their communities.

—Service Corps of Retired Executives: SCORE provides opportunities for retired businessmen to assist in the development of small businesses.

—Active Corps of Executives: ACE provides opportunities for working businessmen to assist in the development of small businesses.

After investigation I have found and hereby declare that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;" and section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable."

The reorganizations provided for in the plan make necessary the appointment and compensation of new officers as specified in section 1 of the plan. The rates of compensation fixed for these officers would be comparable to those fixed for officers in the executive branch who have similar responsibilities.

The reorganization plan should result in more efficient operation of the Government. It is not practical, however, to itemize or aggregate the exact expenditure reductions which would result from this action.

Upon the establishment of Action, I would delegate to it the principal authority for the Peace Corps now vested in me as President and delegated to the Secretary of State. In addition, the function of the Office of Voluntary Action, now operating in the Department of Housing and Urban Development, would be transferred to the new agency by executive action.

Finally, I will submit legislation which would include the transfer of the functions of the Teacher Corps from the Department of Health, Education, and Welfare to the new agency. This legislation would expand authority to develop new uses of volunteer talents, it would provide a citizens' advisory board to work with the director of the new agency, and it would provide authority to match private contributions.

GOALS

Although reorganization is only a step, it is the essential first step toward the goal of a system of volunteer service which uses to the ful'est advantages the power of all the American people to serve the purposes of the American nation.

In pursuing this goal the new agency would, first, expand the testing and development of innovations in voluntary actions. Health services, housing the environment, educational development, manpower and community planning are just a few of the areas in which we would act to accomplish more through voluntary service, and I intend to ask for additional funds and additional authority for Action to explore new approaches to these and other problems.

In the future, we are going to have to find new ways for more people to fulfill themselves and to lead satisfying and productive lives. The problems are of concern even now, but they must be put in perspective quickly because they will soon be upon us. I believe at least some of the answers will be found in volunteer service. Action would work to find those answers and apply them.

Second, there are many Americans who want to contribute to our national life through voluntary citizen service, but who cannot serve full time. Their contributions must not be wasted. Volunteers in full-time service would work with part-time volunteers and the new agency

would develop and provide opportunities for more people to give part-time service.

Third, Action would bring together in one place programs which appeal predominantly to younger Americans with those that appeal to older Americans, and would work to bring the energy, the innovative spirit, the experience, and the skills of each to bear on specific problems. The generations in America share America's problems—they must share in the search for solutions so that we all may share in the benefits of our solutions.

Fourth, Action would develop programs for combining foreign service with domestic service to accommodate volunteers interested in such an opportunity. I believe that young people in particular would be interested in the chance for this experience and would greatly benefit from it. I know there would be great value, for example, in permitting those who have served the needs of the poor abroad to turn their skills and experience to helping the poor at home, and vice versa. In addition, if volunteers are to reap the full benefit of serving, and if they are to be able to provide others the full benefit of their service, then we must open the dors to a fuller exchange of ideas and experiences between overseas and domestic volunteer efforts. These exchanges would considerably enhance the value of the experience gained in these endeavors by broadening the areas in which that experience is applied.

Fifth, at the present time valuable professional skills offered in voluntary service are to frequently limited by narrow categorical programs when their broader application is urgently needed. For example, the contributions of businessmen made through SCORE and ACE are provided only through the Small Business Administration. We know that the skills of business can be used in many areas where they are not used presently. Action would open new channels for service and would permit a more extensive utilization of business and other vocational and professional abilities.

Finally, by centralizing administrative functions of the volunteer services, the new agency would provide a more effective system of recruitment, training, and placement of full-time volunteers than the present circumstances permit. It would provide a single source of information and assistance for those who seek to volunteer full-time service. And it would permit more effective management of services than is currently possible in the administration of volunteer programs, as well as the more efficient use of resources.

PRINCIPLES

In restructuring our system of volunteer services, we can accomplish the goals which I have set forth. But we must do more than this. We must restructure our thinking about volunteer services. We must determine how to use our volunteer resources to accomplish more than they accomplish now. We need an increased effort to stimulate broader volunteer service, to involve more volunteers, and to involve them not simply as foot-soldiers in massive enterprises directed from the top, but in those often small and local efforts that show immediate results, that give immediate satisfaction—those efforts that return to citizens a sense of having a hand in the business of building America. Part of our rethinking of this matter must look to the past so that we may properly meet the needs of the present and prepare for the possibilities of the future.

Volunteer service in poverty areas is a case in point. We already have considerable experience in dealing with the problems of poverty through the use of volunteers. Now we must build upon this experience and find new ways to use more effectively the volunteers presently serving in poverty areas, as well as in all other areas, and to stimulate new programs so that additional numbers of volunteers can assist in the solution of community and national problems.

In line with this effort to build on what we have learned, Action would function with particular concern for these basic principles:

—It would encourage local initiative, and would support local programs to solve local problems.

—Where appropriate, the new agency would assign volunteers to assist, and work under the technical supervision of other Federal agencies, State and local agencies or organizations, and private sponsors.

—The services of local part-time volunteers would be sought and supported in the effort to accomplish specific jobs. They would be assisted, when necessary, by full-time volunteers.

—Universities and colleges, State, city and private organizations must be engaged in the effort to broaden opportunities for volunteer service and under the new agency they would be assisted in these efforts.

—Finally, to meet the increasing need for skilled volunteers, Action would give increased emphasis to recruiting and applying the skills of trained craftsmen and professional workers.

FUNDING

To insure that the new agency has financial resources to begin working toward the goals I have outlined, I will seek for this agency an additional $20 million above the budget requests I have already submitted for the component agencies. These funds would be directed primarily to finding new ways to use volunteer services.

CONCLUSION

The early nineteenth century observer of America, Alexis de Tocqueville, was intrigued by the propensity of Americans to join together in promoting common purposes. "As soon as several of the inhabitants of the United States have taken up an opinion or a feeling which they wish to promote in the world, they look out for mutual assistance, and as soon as they have found one another out, they combine. From that moment they are no longer isolated men, but a power seen from afar * * *."

Though we have seen the success of Government volunteer efforts in the past ten years, I believe voluntary citizen service is still little more than a power seen from afar. In relation to its potential, this power is virtually undeveloped. We must develop it.

There are those today, as there always will be, who find infinite fault with life in this Nation and who conveniently forget that they share responsibility for the quality of life we lead. But our needs are too great for this attitude to be accepted. America belongs to all of its people. We are all responsible for the direction this Nation will take in the century ahead, for the quality of life we will lead and our children will lead. We are all responsible, whether we choose to be or not, for the survival and the success of the American experience and the American dream.

So there is little room for the luxury of making complaints without making commitments.

America must enlist the ideals, the energy, the experience, and the skills of its people on a larger scale than it ever has in the past. We must insure that these efforts be used to maximum advantage. We must insure that the desire to serve be linked with the opportunity to serve. We must match the vision of youth with the wisdom of experience. We must apply the understanding gained from foreign service to domestic needs, and we must extend what we learn in domestic service to other nations. And in all these endeavors, I believe, we can bring the power seen from afar to focus clearly on the problems and the promise of our time.

RICHARD NIXON.

THE WHITE HOUSE, March 24, 1971

REORGANIZATION PLAN NO. 1 OF 1973

Eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089.

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, January 26, 1973, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

EXECUTIVE OFFICE OF THE PRESIDENT

SECTION 1. TRANSFER OF FUNCTIONS TO THE PRESIDENT

Except as provided in section 3(a)(2) of this reorganization plan, there are hereby transferred to the President of the United States all functions vested by law in the Office of Emergency Preparedness or the Director of the Office of Emergency Preparedness after the effective date of Reorganization Plan No. 1 of 1958.

SEC. 2. TRANSFER OF FUNCTIONS TO THE DIRECTOR, NATIONAL SCIENCE FOUNDATION

There are hereby transferred to the Director of the National Science Foundation all functions vested by law in the Office of Science and Technology or the Director or Deputy Director of the Office of Science and Technology.

SEC. 3. ABOLITIONS

(a) The following are hereby abolished:

(1) The Office of Emergency Preparedness including the offices of Director, Deputy Director, and all offices of Assistant Director, and Regional Director of the Office of Emergency Preparedness provided for by sections 2 and 3 of Reorganization Plan No. 1 of 1958 (5 U.S.C., App.).

(2) The functions of the Director of the Office of Emergency Preparedness with respect to being a member of the National Security Council.

(3) The Civil Defense Advisory Council, created by section 102(a) of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2272(a)), together with its functions.

(4) The National Aeronautics and Space Council, created by section 201 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2471), including the office of Executive Secretary of the Council, together with its functions.

(5) The Office of Science and Technology, including the offices of Director and Deputy Director, provided for by sections 1 and 2 of Reorganization Plan No. 2 of 1962 (5 U.S.C., App.).

(b) The Director of the Office of Management and Budget shall make such provisions as he shall deem necessary respecting the winding up of any outstanding affairs of the agencies abolished by the provisions of this section.

SEC. 4. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred by sections 1 and 2 of this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred at such time or times as he shall direct for use in connection with the functions transferred.

(b) Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 5. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect as provided by section 906(a) of title 5 of the United States Code, or on July 1, 1973, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

On January 5 I announced a three-part program to streamline the executive branch of the Federal Government. By concentrating less responsibility in the President's immediate staff and more in the hands of the departments and agencies, this program should significantly improve the services of the Government. I believe these reforms have become so urgently necessary that I intend, with the cooperation of the Congress, to pursue them with all of the resources of my office during the coming year.

The first part of this program is a renewed drive to achieve passage of my legislative proposals to overhaul the Cabinet departments. Secondly, I have appointed three Cabinet Secretaries as Counsellors to the President with coordinating responsibilities in the broad areas of human resources, natural resources, and community development, and five Assistants to the President with special responsibilities in the areas of domestic affairs, economic affairs, foreign affairs, executive management, and operations of the White House.

The third part of this program is a sharp reduction in the overall size of the Executive Office of the President and a reorientation of that office back to its original mission as a staff for top-level policy formation and monitoring of policy execution in broad functional areas. The Executive Office of the President should no longer be encumbered with the task of managing or administering programs which can be run more effectively by the departments and agencies. I have therefore concluded that a number of specialized operational and program functions should be shifted out of the Executive Office into the line departments and agencies of the Government. Reorganization Plan No. 1 of 1973, transmitted herewith, would effect such changes with respect to emergency preparedness functions and scientific and technological affairs.

STREAMLINING THE FEDERAL SCIENCE ESTABLISHMENT

When the National Science Foundation was established by an act of the Congress in 1950, its statutory responsibilities included evaluation of the Government's scientific research programs and development of basic science policy. In the late 1950's however, with the effectiveness of the U.S. science effort under serious scrutiny as a result of sputnik, the post of Science Advisor to the President was established. The White House became increasingly involved in the evaluation and coordination of research and development programs and in science policy matters, and that involvement was institutionalized in 1962 when a reorganization plan established the Office of Science and Technology within the Executive Office of the President, through transfer of authorities formerly vested in the National Science Foundation.

With advice and assistance from OST during the past decade, the scientific and technological capability of the Government has been markedly strengthened. This administration is firmly committed to sustained, broad-based national effort in science and technology, as I made plain last year in the first special message on the subject ever sent by a President to the Congress. The research and development capability of the various executive departments and agencies, civilian as well as defense, has been upgraded. The National Science Foundation has broadened from its earlier concentration on basic research support to take on a significant role in applied research as well. It has matured in its ability to play a coordinating and evaluative role within the Government and between the public and private sectors.

I have therefore concluded that it is timely and appropriate to transfer to the Director of the National Science Foundation all functions presently vested in the Office of Science and Technology, and to abolish that office. Reorganization Plan No. 1 would effect these changes.

The multi-disciplinary staff resources of the Foundation will provide analytic capabilities for performance of the transferred functions. In addition, the Director of the Foundation will be able to draw on expertise from all of the Federal agencies, as well as from outside the Government, for assistance in carrying out his new responsibilities.

It is also my intention, after the transfer of responsibilities is effected, to ask Dr. H. Guyford Stever, the current Director of the Foundation, to take on the additional post of Science Adviser. In this capacity, he would advise and assist the White House, Office of Management and Budget, Domestic Council, and other entities within the Executive Office of the President on matters where scientific and technological expertise is called for, and would act as the President's representative in selected cooperative programs in international scientific affairs, including chairing such joint bodies as the U.S.–U.S.S.R. Joint Commission on Scientific and Technical Cooperation.

In the case of national security, the Department of Defense has strong capabilities for assessing weapons needs and for undertaking new weapons development, and the President will continue to draw primarily on this source for advice regarding military technology. The President in special situations also may seek independent studies or assessments concerning military technology from within or outside the Federal establishment, using the machinery of the National Security Council for this purpose, as well as the Science Adviser when appropriate.

In one special area of technology—space and aeronautics—a coordinating council has existed within the Executive Office of the President since 1958. This body, the National Aeronautics and Space Council, met a major need during the evolution of our nation's space program. Vice President Agnew has served with distinction as its chairman for the past four years. At my request, beginning in 1969, the Vice President also chaired a special

Space Task Group charged with developing strategy alternatives for a balanced U.S. space program in the coming years.

As a result of this work, basic policy issues in the United States space effort have been resolved, and the necessary interagency relationships have been established. I have therefore concluded, with the Vice President's concurrence, that the Council can be discontinued. Needed policy coordination can now be achieved through the resources of the executive departments and agencies, such as the National Aeronautics and Space Administration, augmented by some of the former Council staff. Accordingly, my reorganization plan proposes the abolition of the National Aeronautics and Space Council.

A NEW APPROACH TO EMERGENCY PREPAREDNESS

The organization within the Executive Office of the President which has been known in recent years as the Office of Emergency Preparedness dates back, through its numerous predecessor agencies, more than 20 years. It has performed valuable functions in developing plans for emergency preparedness, in administering Federal disaster relief, and in overseeing and assisting the agencies in this area.

OEP's work as a coordinating and supervisory authority in this field has in fact been so effective—particularly under the leadership of General George A. Lincoln, its director for the past four years, who retired earlier this month after an exceptional military and public service career—that the line departments and agencies which in the past have shared in the performance of the various preparedness functions now possess the capability to assume full responsibility for those functions. In the interest of efficiency and economy, we can now further streamline the Executive Office of the President by formally relocating those responsibilities and closing the Office of Emergency Preparedness.

I propose to accomplish this reform in two steps. First, Reorganization Plan No. 1 would transfer to the President all functions previously vested by law in the Office or its Director, except the Director's role as a member of the National Security Council, which would be abolished; and it would abolish the Office of Emergency Preparedness.

The functions to be transferred to the President from OEP are largely incidental to emergency authorities already vested in him. They include functions under the Disaster Relief Act of 1970; the function of determining whether a major disaster has occurred within the meaning of (1) Section 7 of the Act of September 30, 1950, as amended, 20 U.S.C. 241–1, or (2) Section 762(a) of the Higher Education Act of 1965, as added by Section 161(a) of the Education Amendments of 1972, Public Law 92–318, 86 Stat. 288 at 299 (relating to the furnishing by the Commissioner of Education of disaster relief assistance for educational purposes); and functions under Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), with respect to the conduct of investigations to determine the effects on national security of the importation of certain articles.

The Civil Defense Advisory Council within OEP would also be abolished by this plan, as changes in domestic and international conditions since its establishment in 1950 have now obivated the need for a standing council of this type. Should advice of the kind the Council has provided be required again in the future, State and local officials and experts in the field can be consulted on an ad hoc basis.

Second, as soon as the plan became effective, I would delegate OEP's former functions as follows:

All OEP responsibilities having to do with preparedness for and relief of civil emergencies and disasters would be transferred to the Department of Housing and Urban Development. This would provide greater field capabilities for coordination of Federal disaster assistance with that provided by States and local communities, and would be in keeping with the objective of creating a broad, new Department of Community Development.

OEP's responsibilities for measures to ensure the continuity of civil government operations in the event of major military attack would be reassigned to the General Services Administration, as would responsibility for resource mobilization including the management of national security stockpiles, with policy guidance in both cases to be provided by the National Security Council, and with economic considerations relating to changes in stockpile levels to be coordinated by the Council on Economic Policy.

Investigations of imports which might threaten the national security—assigned to OEP by Section 232 of the Trade Expansion Act of 1962—would be reassigned to the Treasury Department, whose other trade studies give it a readymade capability in this field; the National Security Council would maintain its supervisory role over strategic imports.

Those disaster relief authorities which have been reserved to the President in the past, such as the authority to declare major disasters, will continue to be exercised by him under these new arrangements. In emergency situations calling for rapid interagency coordination, the Federal response will be coordinated by the Executive Office of the President under the general supervision of the Assistant to the President in charge of executive management.

The Oil Policy Committee will continue to function as in the past, unaffected by this reorganization, except that I will designate the Deputy Secretary of the Treasury as chairman in place of the Director of OEP. The committee will operate under the general supervision of the Assistant to the President in charge of economic affairs.

DECLARATIONS

After investigation, I have found that each action included in the accompanying plan is necessary to accomplish one or more of the purposes set forth in Section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to the intention of the Congress as expressed in Section 901(a)(1), "to promote better execution of the laws, more effective management of the executive branch and of its agencies and functions, and expeditious administration of the public business;" and in Section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable;" and in Section 901(a)(5), "to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions as may not be necessary for the efficient conduct of the Government."

While it is not practicable to specify all of the expenditure reductions and other economies which will result from the actions proposed, personnel and budget savings from abolition of the National Aeronautics and Space Council and the Office of Science and Technology alone will exceed $2 million annually, and additional savings should result from a reduction of Executive Pay Schedule positions now associated with other transferred and delegated functions.

The plan has as its one logically consistent subject matter the streamlining of the Executive Office of the President and the disposition of major responsibilities currently conducted in the Executive Office of the President, which can better be performed elsewhere or abolished.

The functions which would be abolished by this plan, and the statutory authorities for each, are:

(1) the functions of the Director of the Office of Emergency Preparedness with respect to being a member of the National Security Council (Sec. 101, National Security Act of 1947, as amended, 50 U.S.C. 402; and Sec. 4, Reorganization Plan No. 1 of 1958);

(2) the functions of the Civil Defense Advisory Council (Sec. 102(a) Federal Civil Defense Act of 1950; 50 U.S.C. App. 2272(a)); and

(3) the functions of the National Aeronautics and Space Council (Sec. 201, National Aeronautics and Space Act of 1958; 42 U.S.C. 2471).

The proposed reorganization is a necessary part of the restructuring of the Executive Office of the President. It would provide through the Director of the National Science Foundation a strong focus for Federal efforts to encourage the development and application of science and technology to meet national needs. It would mean better preparedness for and swifter response to civil emergencies, and more reliable precautions against threats to the national security. The leaner and less diffuse Presi-

dential staff structure which would result would enhance the President's ability to do his job and would advance the interests of the Congress as well.

I am confident that this reorganization plan would significantly increase the overall efficiency and effectiveness of the Federal Government. I urge the Congress to allow it to become effective.

RICHARD NIXON.

THE WHITE HOUSE, January 26, 1973

REORGANIZATION PLAN NO. 2 OF 1973

Eff. July 1, 1973, 38 F.R. 15932, 87 Stat. 1091, as amended Pub. L. 93–253, § 1, Mar. 16, 1974, 88 Stat. 50.

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 28, 1973, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

LAW ENFORCEMENT IN ILLICIT DRUG ACTIVITIES

SECTION 1. TRANSFERS TO THE ATTORNEY GENERAL

There are hereby transferred from the Secretary of the Treasury, the Department of the Treasury, and any other officer or any agency of the Department of the Treasury, to the Attorney General all intelligence, investigative, and law enforcement functions, vested by law in the Secretary, the Department, officers, or agencies which relate to the suppression of illicit traffic in narcotics, dangerous drugs, or marihuana, except that the Secretary shall retain, and continue to perform, those functions, to the extent that they relate to searches and seizures of illicit narcotics, dangerous drugs, or marihuana or to the apprehension or detention of persons in connection therewith, at regular inspection locations at ports of entry or anywhere along the land or water borders of the United States: *Provided*, that any illicit narcotics, dangerous drugs, marihuana, or related evidence seized, and any person apprehended or detained by the Secretary or any officer of the Department of the Treasury, pursuant to the authority retained in them by virtue of this section, shall be turned over forthwith to the jurisdiction of the Attorney General; *Provided further*, that nothing in this section shall be construed as limiting in any way any authority vested by law in the Secretary of the Treasury, the Department of the Treasury, or any other officer or any agency of that Department on the effective date of this Plan with respect to contraband other than illicit narcotics, dangerous drugs, and marihuana; and *Provided further*, that nothing in this section shall be construed as limiting in any way any authority the Attorney General, the Department of Justice, or any other officer or any agency of that Department may otherwise have to make investigations or engage in law enforcement activities, including activities relating to the suppression of illicit traffic in narcotics, dangerous drugs, and marihuana, at ports of entry or along the land and water borders of the United States.

SEC. 2. TRANSFERS TO THE SECRETARY OF THE TREASURY

[Repealed. Pub. L. 93–253, § 1(a)(1), (b), Mar. 16, 1974, 88 Stat. 50, eff. July 1, 1973. Section had provided for transfer to Secretary of Treasury of functions vested in Attorney General, Department of Justice, or any other officer of such Department respecting inspection at ports of entry of persons, and documents of persons, entering or leaving the United States.]

SEC. 3. ABOLITION

The Bureau of Narcotics and Dangerous Drugs, including the Office of Director thereof, is hereby abolished, and section 3(a) of Reorganization Plan No. 1 of 1968 is hereby repealed. The Attorney General shall make such provision as he may deem necessary with respect to terminating those affairs of the Bureau of Narcotics and Dangerous Drugs not otherwise provided for in the Reorganization Plan.

SEC. 4. DRUG ENFORCEMENT ADMINISTRATION

There is established in the Department of Justice an agency which shall be known as the Drug Enforcement Administration, hereinafter referred to as "the Administration."

SEC. 5. OFFICERS OF THE ADMINISTRATION

(a) There shall be at the head of the Administration the Administrator of Drug Enforcement, hereinafter referred to as "the Administrator." The Administrator shall be appointed by the President by and with the advice and consent of the Senate, and shall receive compensation at the rate now or hereafter prescribed by law for positions of level III of the Executive Schedule Pay Rates (5 U.S.C. 5314). He shall perform such functions as the Attorney General shall from time to time direct.

(b) There shall be in the Administration a Deputy Administrator of the Drug Enforcement Administration, hereinafter referred to as "the Deputy Administrator," who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Attorney General may from time to time direct, and shall received compensation at the rate now or hereafter prescribed by law for positions of level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(c) The Deputy Administrator or such other official of the Department of Justice as the Attorney General shall from time to time designate shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

SEC. 6. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Attorney General may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this Reorganization Plan by any officer, employee, or agency of the Department of Justice.

[Section, formerly subsec. (a), so designated and former subsec. (b) providing for performance of functions transferred to Secretary of Treasury by any officer, employee, or agency of Treasury Department, repealed by Pub. L. 93–253, § 1(a)(2), (b), Mar. 16, 1974, 88 Stat. 50, eff. July 1, 1973.]

SEC. 7. COORDINATION

The Attorney General, acting through the Administrator and such other officials of the Department of Justice as he may designate, shall provide for the coordination of all drug law enforcement functions vested in the Attorney General so as to assure maximum cooperation between and among the Administration, the Federal Bureau of Investigation, and other units of the Department involved in the performance of these and related functions.

SEC. 8. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available or to be made available in connection with the functions transferred to the Attorney General and to the Secretary of the Treasury by this Reorganization Plan as the Director of the Office of Management and Budget shall determine shall be transferred to the Department of Justice and to the Department of the Treasury, respectively, at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such Federal agencies as he shall designate.

SEC. 9. INTERIM OFFICERS

(a) The President may authorize any person who, immediately prior to the effective date of this Reorganization Plan, held a position in the Executive Branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provisions of this Reorganization Plan or by recess appointment as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect to which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

SEC. 10. EFFECTIVE DATE

The provisions of this Reorganization Plan shall take effect as provided by section 906(a) of title 5 of the

United States Code or on July 1, 1973, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

Drug abuse is one of the most vicious and corrosive forces attacking the foundations of American society today. It is a major cause of crime and a merciless destroyer of human lives. We must fight it with all of the resources at our command.

This Administration has declared all-out, global war on the drug menace As I reported to the Congress earlier this month in my State of the Union message, there is evidence of significant progress on a number of fronts in that war.

Both the rate of new addiction to heroin and the number of narcotic-related deaths showed an encouraging downturn last year. More drug addicts and abusers are in treatment and rehabilitation programs than ever before.

Progress in pinching off the supply of illicit drugs was evident in last year's stepped-up volume of drug seizures worldwide—which more than doubled in 1972 over the 1971 level.

Arrests of traffickers have risen by more than one-third since 1971. Prompt Congressional action on my proposal for mandatory minimum sentences for pushers of hard drugs will help ensure that convictions stemming from such arrests lead to actual imprisonment of the guilty.

Notwithstanding these gains, much more must be done. The resiliance of the international drug trade remains grimly impressive—current estimates suggest that we still intercept only a small fraction of all the heroin and cocaine entering this country. Local police still find that more than one of every three suspects arrested for street crimes is a narcotic abuser or addict. And the total number of Americans addicted to narcotics, suffering terribly themselves and inflicting their suffering on countless others, still stands in the hundreds of thousands.

A UNIFIED COMMAND FOR DRUG ENFORCEMENT

Seeking ways to intensify our counter-offensive against this menace, I am asking the Congress today to join with this Administration in strengthening and streamlining the Federal drug law enforcement effort.

Funding for this effort has increased sevenfold during the past five years, from $36 million in fiscal year 1969 to $257 million in fiscal year 1974—more money is not the most pressing enforcement need at present. Nor is there a primary need for more manpower working on the problem, over 2100 new agents having already been added to the Federal drug enforcement agencies under this Administration, an increase of more than 250 percent over the 1969 level.

The enforcement work could benefit significantly, however, from consolidation of our anti-drug forces under a single unified command. Right now the Federal Government is fighting the war on drug abuse under a distinct handicap, for its efforts are those of a loosely confederated alliance facing a resourceful, elusive, worldwide enemy. Admiral Mahan, the master naval strategist, described this handicap precisely when he wrote that "Granting the same aggregate of force, it is never as great in two hands as in one, because it is not perfectly concentrated."

More specifically, the drug law enforcement activities of the United States now are not merely in two hands but in half a dozen. Within the Department of Justice, with no overall direction below the level of the Attorney General, these fragmented forces include the Bureau of Narcotics and Dangerous Drugs, the Office for Drug Abuse Law Enforcement, the Office of National Narcotics Intelligence, and certain activities of the Law Enforcement Assistance Administration. The Treasury Department is also heavily engaged in enforcement work through the Bureau of Customs.

This aggregation of Federal activities has grown up rapidly over the past few years in response to the urgent need for stronger anti-drug measures. It has enabled us to make a very encouraging beginning in the accelerated drug enforcement drive of this Administration.

But it also has serious operational and organizational shortcomings. Certainly the cold-blooded underworld networks that funnel narcotics from suppliers all over the world into the veins of American drug victims are no respecters of the bureaucratic dividing lines that now complicate our anti-drug efforts. On the contrary, these modern-day slave traders can derive only advantage from the limitations of the existing organizational patchwork. Experience has now given us a good basis for correcting those limitations, and it is time to do so.

I therefore propose creation of a single, comprehensive Federal agency within the Department of Justice to lead the war against illicit drug traffic.

Reorganization Plan No. 2 of 1973, which I am transmitting to the Congress with this message, would establish such an agency, to be called the Drug Enforcement Administration. It would be headed by an Administrator reporting directly to the Attorney General.

The Drug Enforcement Administration would carry out the following anti-drug functions, and would absorb the associated manpower and budgets:

—All functions of the Bureau of Narcotics and Dangerous Drugs (which would be abolished as a separate entity by the reorganization plan);

—Those functions of the Bureau of Customs pertaining to drug investigations and intelligence (to be transferred from the Treasury Department to the Attorney General by the reorganization plan);

—All functions of the Office for Drug Abuse Law Enforcement; and

—All functions of the Office of National Narcotics Intelligence.

Merger of the latter two organizations into the new agency would be effected by an executive order dissolving them and transferring their functions, to take effect upon approval of Reorganization Plan No. 2 by the Congress. Drug law enforcement research currently funded by the Law Enforcement Assistance Administration and other agencies would also be transferred to the new agency by executive action.

The major responsibilities of the Drug Enforcement Administration would thus include:

—development of overall Federal drug law enforcement strategy, programs, planning, and evaluation;

—full investigation and preparation for prosecution of suspects for violations under all Federal drug trafficking laws:

—full investigation and preparation for prosecution of suspects connected with illicit drugs seized at U.S. ports-of-entry and international borders;

—conduct of all relations with drug law enforcement officials of foreign governments, under the policy guidance of the Cabinet Committee on International Narcotics Control;

—full coordination and cooperation with State and local law enforcement officials on joint drug enforcement efforts; and

—regulation of the legal manufacture of drugs and other controlled substances under Federal regulations.

The Attorney General, working closely with the Administrator of this new agency, would have authority to make needed program adjustments. He would take steps within the Department of Justice to ensure that high priority emphasis is placed on the prosecution and sentencing of drug traffickers following their apprehension by the enforcement organization. He would also have the authority and responsibility for securing the fullest possible cooperation—particularly with respect to collection of drug intelligence—from all Federal departments and agencies which can contribute to the anti-drug work, including the Internal Revenue Service and the Federal Bureau of Investigation.

My proposals would make possible a more effective anti-drug role for the FBI, especially in dealing with the relationship between drug trafficking and organized crime. I intend to see that the resources of the FBI are fully committed to assist in supporting the new Drug Enforcement Administration.

The consolidation effected under Reorganization Plan No. 2 would reinforce the basic law enforcement and criminal justice mission of the Department of Justice. With worldwide drug law enforcement responsibilities no longer divided among several organizations in two different Cabinet departments, more complete and cumulative drug law enforcement intelligence could be compiled. Patterns of international and domestic illicit drug

production, distribution, and sale could be more directly compared and interpreted. Case-by-case drug law enforcement activities could be more comprehensively linked, cross-referenced, and coordinated into a single, organic enforcement operation. In short, drug law enforcement officers would be able to spend more time going after the traffickers and less time coordinating with one another.

Such progress could be especially helpful on the international front. Narcotics control action plans, developed under the leadership of the Cabinet Committee on International Narcotics Control, are now being carried out by U.S. officials in cooperation with host governments in 59 countries around the world. This wide-ranging effort to cut off drug supplies before they ever reach U.S. borders or streets is just now beginning to bear fruit. We can enhance its effectiveness, with little disruption of ongoing enforcement activities, by merging both the highly effective narcotics force of overseas Customs agents and the rapidly developing international activities of the Bureau of Narcotics and Dangerous Drugs into the Drug Enforcement Administration. The new agency would work closely with the Cabinet Committee under the active leadership of the U.S. Ambassador in each country where anti-drug programs are underway.

Two years ago, when I established the Special Action Office for Drug Abuse Prevention within the Executive Office of the President, we gained an organization with the necessary resources, breadth, and leadership capacity to begin dealing decisively with the "demand" side of the drug abuse problem—treatment and rehabilitation for those who have been drug victims, and preventive programs for potential drug abusers. This year, by permitting my reorganization proposals to take effect, the Congress can help provide a similar capability on the "supply" side. The proposed Drug Enforcement Administration, working as a team with the Special Action Office, would arm Americans with a potent one-two punch to help us fight back against the deadly menace of drug abuse. I ask full Congressional cooperation in its establishment.

IMPROVING PORT-OF-ENTRY INSPECTIONS

No heroin or cocaine is produced within the United States; domestic availability of these substances results solely from their illegal importation. The careful and complete inspection of all persons and goods coming into the United States is therefore an integral part of effective Federal drug law enforcement.

At the present time, however, Federal responsibility for conducting port-of-entry inspections is awkwardly divided among several Cabinet departments. The principal agencies involved are the Treasury Department's Bureau of Customs, which inspects goods, and the Justice Department's Immigration and Naturalization Service, which inspects persons and their papers. The two utilize separate inspection procedures, hold differing views of inspection priorities, and employ dissimilar personnel management practices.

To reduce the possibility that illicit drugs will escape detection at ports-of-entry because of divided responsibility, and to enhance the effectiveness of the Drug Enforcement Administration, the reorganization plan which I am proposing today would transfer to the Secretary of the Treasury all functions currently vested in Justice Department officials to inspect persons, or the documents of persons.

When the plan takes effect, it is my intention to direct the Secretary of the Treasury to use the resources so transferred—including some 1,000 employees of the Immigration and Naturalization Service—to augment the staff and budget of the Bureau of Customs. The Bureau's primary responsibilities would then include:

—inspection of all persons and goods entering the United States;

—valuation of goods being imported, and assessment of appropriate tariff duties;

—interception of contraband being smuggled into the United States;

—enforcement of U.S. laws governing the international movement of goods, except the investigation of contraband drugs and narcotics; and

—turning over the investigation responsibility for all drug law enforcement cases to the Department of Justice.

The reorganization would thus group most port-of-entry inspection functions in a single Cabinet department. It would reduce the need for much day-to-day interdepartmental coordination, allow more efficient staffing at some field locations, and remove the basis for damaging inter-agency rivalries. It would also give the Secretary of the Treasury the authority and flexibility to meet changing requirements in inspecting the international flow of people and goods. An important by-product of the change would be more convenient service for travellers entering and leaving the country.

For these reasons, I am convinced that inspection activities at U.S. ports-of-entry can more effectively support our drug law enforcement efforts if concentrated in a single agency. The processing of persons at ports-of-entry is too closely interrelated with the inspection of goods to remain organizationally separated from it any longer. Both types of inspections have numerous objectives besides drug law enforcement, so it is logical to vest them in the Treasury Department, which has long had the principal responsibility for port-of-entry inspection of goods, including goods being transported in connection with persons. As long as the inspections are conducted with full awareness of related drug concerns it is neither necessary nor desirable that they be made a responsibility of the primary drug enforcement organization.

DECLARATIONS

After investigation, I have found that each action included in Reorganization Plan No. 2 of 1973 is necessary to accomplish one or more of the purposes set forth in Section 901(a) of Title 5 of the United States Code. In particular, the plan is responsive to the intention of the Congress as expressed in Section 901(a)(1): "to promote better execution of the laws, more effective management of the executive branch and of its agencies and functions, and expeditious administration of the public business;" Section 901(a)(3): "to increase the efficiency of the operations of the Government to the fullest extent practicable;" Section 901(a)(5): "to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions as may not be necessary for the efficient conduct of the Government;" and Section 901(a)(6): "to eliminate overlapping and duplication of effort."

As required by law, the plan has one logically consistent subject matter: consolidation of Federal drug law enforcement activities in a manner designed to increase their effectiveness.

The plan would establish in the Department of Justice a new Administration designated as the Drug Enforcement Administration. The reorganizations provided for in the plan make necessary the appointment and compensation of new officers as specified in Section 5 of the plan. The rates of compensation fixed for these officers would be comparable to those fixed for officers in the executive branch who have similar responsibilities.

While it is not practicable to specify all of the expenditure reductions and other economies which may result from the actions proposed, some savings may be anticipated in administrative costs now associated with the functions being transferred and consolidated.

The proposed reorganization is a necessary step in upgrading the effectiveness of our Nation's drug law enforcement effort. Both of the proposed changes would build on the strengths of established agencies, yielding maximum gains in the battle against drug abuse with minimum loss of time and momentum in the transition.

I am confident that this reorganization plan would significantly increase the overall efficiency and effectiveness of the Federal Government. I urge the Congress to allow it to become effective.

RICHARD NIXON.

THE WHITE HOUSE, March 28, 1973